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REPORT OF
PROCEEDINGS

Twenty-third
Annual Conference
OF
Governors of the
United States
of America



AT FRENCH LICK, INDIANA
June 1-2, 1931

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GOVERNORS' CONFERENCE

ARTICLES OF ORGANIZATION

ARTICLE I.

The style of this organization shall be the "Governors' Conference."

ARTICLE II.

Active membership in the Governors' Conference shall be restricted to the Governors of the several States and territories of the United States, the term "Governors" to include Governors-Elect. Ex-Governors shall be received as honorary members and, as such, shall be entitled to all the rights and privileges of active membership except the right of voting.

ARTICLE III.

The functions of the Governors' Conference shall be to meet yearly for an exchange of views and experiences on subjects of general importance to the people of the several States, the promotion of greater uniformity in State legislation and the attainment of greater efficiency in State administration.

ARTICLE IV.

The Conference shall meet annually at a time and place selected by the members of the Executive Committee.

ARTICLE V.

The Conference shall have no permanent president.

A Governor shall be selected by the Executive Committee at the close of each half day's session to preside at the succeeding meeting.

ARTICLE VI.

There shall be no permanent rules for the government of the Conference in discussion or debate, but the procedure at any session shall be subject to the pleasure of the Governors present.

ARTICLE VII.

The proceedings of the Conference shall be fully reported and published.

ARTICLE VIII.

The affairs of the Conference shall be managed by an Executive Committee composed of five members to be chosen by the Conference at the regular annual meeting. They shall hold office until the close of the succeeding regular annual meeting and until their successors are chosen. Vacancies in the Executive Committee may be filled by the remaining members thereof.

ARTICLE IX.

A secretary and treasurer shall be elected by the Conference at each annual meeting.

The Secretary shall attend all meetings of the Conference, keep a correct record thereof, safely keep an account for all documents, papers and other property of the Conference which shall come into his hands, and shall perform all other duties usually appertaining to his office or which may be required by the Executive Committee. He shall be paid an annual salary of not to exceed twenty-five hundred dollars and shall be reimbursed his actual and necessary expenses incurred while traveling on the business of the Conference.

The Secretary shall annually prepare and submit to the Conference a budget of the expenses for the ensuing year. He shall make all necessary arrangements for a program for the regular annual meeting and shall edit the stenographic reports of the proceedings at all meetings. He shall, also, so far as possible, cooperate and keep in touch with organizations, societies and other agencies designed to promote uniformity of legislation.

ARTICLE X.

The Treasurer shall have the custody of the funds of the Conference, subject to the rules of the Executive Committee. He shall deposit funds of the Conference in its name, shall annually report all receipts, disbursements and balances on hand, and shall furnish a bond with sufficient sureties conditioned for the faithful performance of his duties.

ARTICLE XI.

Persons not members of the Conference shall not be heard until the regular order of business for the day has been concluded, and then only by unanimous consent. All programs for social entertainment must be approved in advances by the Executive Committee.

ARTICLE XII.

These articles or any of them may be altered, amended, added to or repealed at any time by a majority vote of all Governors present and voting at any regular annual meeting of the Conference.

REPORT OF PROCEEDINGS

Twenty-third Annual Conference of Governors

At French Lick, Indiana
June 1-2, 1931

FIRST SESSION

The opening session of the Twenty-third Conference of Governors, held June 1 and 2, 1931, at French Lick, Indiana, convened at 10:30 a. m., Governor Norman S. Case, of Rhode Island, Chairman Executive Committee, presiding.

CHAIRMAN CASE: The Conference will please come to order.

As was the custom of this Nation when it was founded, and during the conferences on the Constitution and Declaration of Independence and all others, it has been the habit to have our deliberations opened with prayer. I shall therefore call this morning, for the invocation, upon the Reverend James H. Honnigford, J. C. L., of West Baden, Indiana.

REVEREND JAMES H. HONNIGFORD, J. C. L.: We pray Thee, Almighty and Eternal Father, to bless our country, to bless our States and our Government. We ask Thee to bless our deliberations and to grant us charity. In all things may we seek Thy will and may we be guided only by consideration of the opinions of others.

Our Father, Who art in Heaven, hallowed be Thy name, Thy kingdom come, Thy will be done on earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us, and lead us not into temptation but deliver us from evil. Amen.

CHAIRMAN CASE: It is a pleasure to see so many of the Governors here of the States this morning, and we are particularly happy in that we are guests of one of the Governors for whom we have the greatest respect, which amounts almost to an affection. It would be presumptuous of me to introduce to this Conference the Governor of the great State of Indiana, but our host is here this morning to welcome us and I take pleasure in presenting the members of this Conference to the Governor of Indiana, Governor Harry G. Leslie.

The audience arose and applauded.

ADDRESS OF WELCOME BY GOVERNOR LESLIE

GOVERNOR LESLIE (Indiana): It is a rare privilege we of Indiana have in being host to the distinguished guests now gathered here.

In the name of the people of Indiana I bid you welcome and trust that your stay in our midst will be as profitable to you as we anticipate its being to us.

This part of our State is sometimes called the Switzerland of Indiana. There are many caverns of entrancing beauty. Lost River mysteriously disappears, to come bubbling up many miles away. Many sections of the State have their peculiar beauties and attractions.

To those of us who are delegated with the heavy responsibilities of public office, this Conference should do much to lighten the executive burdens. When this Conference adjourns we should have a better understanding of the many problems that come to all of us. Our respective States have much in common. The question of taxes and public expenditures, executive duties and power, highway construction, institutional care of unfortunates, apprehension of criminals and law enforcement, vitally affect the welfare of the people of every State. These are common problems to all of us and should receive our most serious consideration. I hope that each will exercise the utmost freedom of expression in all of our discussions. I trust that each will feel free to come and go as he pleases. The good old days are gone forever, when every home was a place of rest for the belated traveler. We no longer hear the cheery response of "Who's there?" to our knock of admittance, but the latchstring of welcome is always out and the Hoosier greeting is just as hearty and generous as in the days of yore.

Again I bid you welcome and I trust that your stay here will be pleasant.

It has been very kind of our people in their attempt to assist us in the interest and entertainment of this distinguished body, and if there is anything we can do to make your visit pleasant I trust you will feel free to call upon us. I thank you. (Applause.)

RESPONSE BY GOVERNOR CASE

GOVERNOR CASE (Rhode Island): Governor Leslie, Members of the Governors' Conference, Ladies and Guests:

Speaking for the Governors present, our former active members whom we miss but remember with esteem and respect, and guests, I assure our host Governor and the people of Indiana that it gives us great pleasure to hold our Twenty-third Annual Conference at the heart of the Nation, at or near the center of population of this great Republic.

Governor Leslie's welcome is strictly a Hoosier accomplishment. He puts us at ease and immediately supplies every facility for our comfort and entertainment. This is but one of the native attributes of which mid-westerners are possessed and we, like the many who have enjoyed the influence of that hospitality, express appreciation.

I am of opinion, and I believe my colleagues will agree, it is this cordiality, this sincerity, this "I-am-glad-to-have-you-with-us" expression of the Chief Executive and his constituents, that have been of material helpfulness in the building of this important

political unit of these United States. It explains much that filters into the homes of the Nation by means of our latest notable educational and entertaining invention.

The kindly words of our host Governor bring vividly to my mind previous sessions held in Utah, Connecticut, Michigan, Louisiana, and meetings of our Executive Committees at various places.

The Conferences of the past have been of inestimable value to our country. The present Conference will add to the store of general knowledge of the millions of people of the land, and ours. Indiana is doing her share in the task of bringing our 48 States into closer relationship and from which increasing dividends will accrue to the advantage of all our people. With Governor Leslie we report in this classroom to improve ourselves for present common good and for the benefit of future generations.

Indiana possesses an enviable record among her sister States. Her early settlers were descendants of that sturdy stock that struggled to protect and preserve our original Colonies. A courtly gentleman from Governor Pollard's home State, Virginia, George Rogers Clark by name, on your sacred soil, by military brilliancy, and aided by men of courage, daring and indomitable will, turned the tide during the Revolutionary War and sowed the seed that resulted in the building of this rich inland cluster of mighty commonwealths.

Their descendants pressed on in later years to the Pacific coast. Out of the East came continuing assistance in man-power and financial support. Our country today is recognized as the outstanding nation of the world.

We are burdened with the momentous trust of keeping our land safe and sane for posterity, and such gatherings as this is part of the constructive labor which promises security for the future.

Here in Indiana Lincoln spent his youth. His was a constant struggle for a livelihood and an education. Under difficulties, the like of which our sons shall never experience, he rose to sublime heights. His name is written beside that of Washington. Oliver P. Morton, a former Governor of Indiana, was Lincoln's strength and support during troublesome times.

Your population increased with the coming of more strong men and women; schools were established; educators, poets and writers developed, artists, geologists, botanists, chemists, teachers and editors found Indianans a most hospitable people and the State an attractive place in which to live and work. Harrison, Wallace, Thompson, Moody, Porter, Herschell, James Whitcomb Riley, Tarkington, Ade, McCutcheon, and Beveridge number among your illustrious sons. Men who were graduated at your educational institutions have honored Indiana, the country and themselves.

Your resources are of immense value to the Nation. Millions of tons of fuel annually are mined within your borders. The rib of Indiana furnishes imperishable granite and other building materials. The product of your quarries is known throughout the States as well as is your raw material used in cement manufacture. The ledge of limestone underlying a portion of your State is the largest

known vein in the world. Your petroleum products are most important and your innumerable raw materials have called gigantic industries to locate large plants within your borders. Your inhabitants have shared in the profits produced by their brains and by their hands.

Although your manufacturing interests are immense, your position as an agricultural State is preeminent. We are your satisfied customers and are glad to contract with you in large sums for your food products, your blooded Herefords and other stock because we know in advance that livestock and merchandise from Indiana are of first grade and warrant increased future trading. You have no State debt.

This is a brief synopsis of what we have learned about Indiana since you, Sir, have been associated with us as a valued and esteemed member of this Conference.

I thought it would be easier for me to say some of these things than it would be for the Governor of Indiana to talk about his own State. (Applause.)

I am firmly of the belief that associations formed at these annual gatherings make for better understanding of the problems which we are called upon to solve. Our hearty cooperation throughout the year has been resultant in progress and achievements of our individual State governments, for the good of civilization and for the general welfare of the United States.

Governor Leslie, our sessions in Indiana will attract nation-wide attention and comment. Distinguished colleagues are to submit papers filled with vital suggestions. I am aware that the people of the Nation are ready and anxious to listen to our deliberations.

To emphasize our appreciation of your generous welcome, and that of the Commonwealth of Indiana, may I repeat, your hospitality presents itself without limitation. (Applause.)

ROLL CALL OF GOVERNORS

CHAIRMAN CASE: It has always been the custom at these Conferences, and we follow tradition, that the roll shall be called by the Secretary, and that the Governor representing that State shall respond. I would appreciate it and I think all members of the Conference would appreciate it if when the roll is called the Governor of the State would stand and respond with his name, and may I ask that during that it shall be the answering of the roll only, and that any expression of welcome or applause or appreciation be deferred at that time. The Secretary will call the roll.

The following responded to the roll call:

ARKANSAS.....	Governor HARVEY PARNELL
FLORIDA.....	Ex-Governor HARDEE
GEORGIA.....	Governor L. G. HARDMAN
ILLINOIS.....	Governor LOUIS L. EMMERSON
INDIANA.....	Governor HARRY G. LESLIE
	Ex-Governor BRANCH
KANSAS.....	Governor HARRY H. WOODRING

MAINE.....	Governor WILLIAM TUDOR GARDINER
MARYLAND.....	Governor ALBERT C. RITCHIE
MICHIGAN.....	Governor WILBER M. BRUCKER
MINNESOTA.....	Governor FLOYD B. OLSON
MISSOURI.....	Governor HENRY S. CAULFIELD
MONTANA.....	Governor J. E. ERICKSON
NEW HAMPSHIRE.....	Governor JOHN G. WINANT
NEW YORK.....	Governor FRANKLIN D. ROOSEVELT
NORTH DAKOTA.....	Governor GEORGE F. SHAFER
OHIO.....	Governor GEORGE WHITE
PENNSYLVANIA.....	Governor GIFFORD PINCHOT
RHODE ISLAND.....	Governor NORMAN S. CASE
SOUTH CAROLINA.....	Governor IBRA C. BLACKWOOD
UTAH.....	Governor GEORGE H. DERN
VERMONT.....	Governor STANLEY C. WILSON
VIRGINIA.....	Governor JOHN GARLAND POLLARD

Governor Buck, of Delaware, was expected but had not arrived.

SECRETARY HARDEE: Here are some telegrams:

"Because Legislature will continue in session, it is impossible to attend Governors' Conference. Exceedingly sorry. Joseph B. Ely, Governor of Commonwealth of Massachusetts."

"Sincere salutations. Oklahoma has paid her dues to and wishes to be in good standing with the Conference, and I deeply regret my inability to be present in person, but join you fully in spirit. May I suggest action on the twilight zone between Federal and State co-operative service, which too often causes duplication and hence unnecessary expense to both. Moreover, reciprocity in information on inheritance and income tax collection should be had between Federal and State authorities and enforcement of the laws together with full cooperation in all things making for honesty, economy and efficiency in government. William H. Murray, Governor."

"Situation has arisen here making it utterly impossible for me to attend Governors' Conference. Needless for me to say I am tremendously chagrined and disappointed because I had looked forward with so much pleasure to attending this meeting and seeing you and my other friends again. Please accept my best wishes for a most successful Conference. O. Max Gardner, Governor of North Carolina."

CHAIRMAN CASE: Instead of any report of the Executive Committee, I should like to say a word or two about the purposes of the Conference. In our program you will find the by-laws of the Conference, and we adhere to those rather strictly, expecting the Governors to represent their own States and inviting ex-Governors to be members of the Conference.

The purpose of the Conference in my mind, and I have not had as long experience as some, although I have attended four, this being my fifth, is to furnish information one to another about our administrative duties, then to have helpful discussion relative to that in the hope that it will be educational to us all and stimulate us in our par-

ticular jobs, and also, last but not least, the fact that it gives us the opportunity to come in personal contact one with the other. If we write letters or take up other matters it is a question of knowing the other Governor and realizing he is going to take a personal interest and not a departmental interest simply when he receives communications from us.

The Governors' Conference also is not an open forum except to the members of the Conference; that is, the Governors themselves. The program is prepared by each succeeding Executive Committee, and it is believed by them that the subjects which will be of general interest to the Governors are particularly in regard to the duties of their office. The subjects may not be brilliant, but all of us who have been Governors find that it is the everyday work that counts, and it is in the everyday work that we find our problems. The public is invited as spectators, but not as participants, in the Conference.

I may say that we have many requests from individuals and from organizations to appear before this Governors' Conference or join with this Governors' Conference with cooperative effort. All have been told that we have uniformly declined to open the Conference to others except the Governors themselves, and that there is barely sufficient time for us for a proper and a full discussion of the subjects which are on the program.

There was some discussion some time since about not having sufficient time for discussion, and you will note in this program your Committee has decided to have discussion of the papers of the morning in the afternoon. The plan will be that from three to four in the afternoon there will be open discussion to which the public is invited, and at four o'clock the Governors will then assemble themselves around the round table and discuss those or any other subjects which they may wish to discuss among themselves, probably from four to five o'clock in the afternoon. That will be the program for both days, if that meets with your approval as Governors.

We pass no resolutions at this Conference and we are bound by no resolutions. It is simply an opportunity for an exchange of ideas, an idea that we will help out the other Governor with his problems from our experience and that you from your larger experience may be able to help us out with our individual problems.

I think that is a sufficient résumé and statement of the purposes of the Governors' Conference, and it is something of that nature which is done each year in order that those who have not previously attended the Conference might know the exact purport of our ideas and the way the Conference has previously been run.

We shall proceed to the discussion of the first paper. I know nothing about the Governor of Michigan except that he is Governor of Michigan, and that it is his first appearance here. He probably feels a little bit disturbed to appear before such an august body at the moment, but any man who has gone through the service which he has

gone through in former times in '17 and '18 should not fear to stand before any barrage. It is my pleasure to introduce the Honorable Wilber M. Brucker, the Governor of Michigan, who will speak on "State Supervision of Local Expenditures." (Applause.)

GOVERNOR BRUCKER (Michigan): Governor Case, Members of the Governors' Conference, Ladies and Gentlemen:

You know in Michigan they have a way of catching them young and bringing them up in the Republican party. That explains my being Governor of Michigan and your not knowing me.

Incidentally, I have noticed that both in the program and otherwise two freshmen in this business of governing since the first of the year, Governor Pinchot and I, have varied parts on this program. The one is to initiate at the beginning and, from press reports, the other is to terminate it, and both there and in the program Governor Pinchot comes at the end.

I don't know why a Governor, as a freshman, should begin on sophomore subjects such as taxation, but regardless of that I am most happy to begin on a very dry subject, one that is of more interest to the Governors perhaps than to those who have no part in the business of government, but I approach it from the standpoint of State supervision rather than from the angle of the local focus on State management. So my subject is "State Supervision of Local Expenditures."

Tax burdens, largely local in origin, have ceased to be merely a source of perennial complaint and have become a menace to the stability of government. Tax sales are on the increase. Taxpayers' strikes are in progress in the very centers of wealth and there has been an alarming growth in the list of defaulting municipalities and assessment districts.

The desirability and need for a definite policy on the part of the several States in regard to local expenditure is increased through the growing demand from the localities that the central governments shall assume full control of certain functions heretofore regarded as local, and contribute grants in aid to the minor political subdivisions to assist in the financing of other services. Most of these demands are based upon the claim of inadequate local revenue.

There is no question but that in many instances local spending now seeks to absorb all of the revenue that can be drained from the general property tax, and more, yet there has been little or no sign of a let-up in the demands for further increases to provide additional local governmental services or to expand old ones.

States have hesitated to interfere unduly with the conduct of local government. They have, instead, tended toward a constant widening of the latitude of home rule, trusting that the lodging of greater responsibility in local officialdom would encourage each unit to work out its own salvation.

It is my belief that this policy has had beneficial results, in the main. Michigan is sometimes referred to as the leading Home Rule State in the Union due to the liberality she has shown in allowing cities and villages to frame their own charters. The municipal

governments which have developed under this policy are a source of pride of our State. Yet Michigan like many other States is faced today with a tax crisis and here, as elsewhere, it is the local tax burden that has contributed the lion's share of the difficulty.

Almost everywhere there is a tendency to fix a large share of the responsibility for local ills upon the State central governments. In less arduous times it was frequently possible for the State officials to shift responsibility by repeating the time-worn phrase that 90 per cent of the taxes are local; only 10 per cent are State levies. This answer is of very little service today and was always of doubtful accuracy.

The State is chargeable with much more than 10 per cent of the total State and local taxes. It is responsible directly or indirectly for more nearly 100 per cent. Aside from Federal taxation it compels, permits or encourages every levy that is made within its borders.

To be specific, it compels the establishment of such institutions as the courts, the police, welfare agencies, highways and schools. It grants a wide discretion in exceeding the minimum requirements for all of these services and others. It induces localities to increase expenditures for favored purposes through the process of dollar matching.

The general effect has been that local officials have been set an impossible task and have then been held accountable for conditions that were largely beyond their control. The remedy seems to be that the central governments should assume a greater share of the responsibility for the conditions they have created.

This responsibility can be discharged only through an increased measure of control over local affairs. It may take the form of regulatory legislation, which seeks to limit the local units through the application of more or less general formulas. Or it may attack the very structure of the minor political units, through bringing about their internal reorganization or their compulsory consolidation, not only of the units themselves, but the consolidation of the functions of local government, and lastly, it may take the form of a more or less intimate supervision of the actual operations of the localities, thus supplementing the initiative of local officials with some degree of centralized management of a type designed to carry into operation in each locality certain policies of spending that are determined by the general government.

It is my purpose to discuss briefly the first two of these three phases of control before considering the problem of State supervision itself.

You will notice I have divided this into three heads or subheads of control, and the third is that of supervision, which in my judgment is paramount and will be emphasized early.

These are all steps that make for the more efficient operation of government and for economy in its true sense. It is unquestionably the duty of the State, in granting authority to local units to

raise and spend the taxpayer's money, to hedge the exercise of this prerogative with limitations that will prevent practices that are extravagant and would not be tolerated in private business.

Yet it must be recognized that the extent to which such regulatory measures can succeed in enforcing economy is limited. Rules and regulations to be worthy of enforcement must be of such general application as to avoid interfering with sound practices in one locality while preventing an unsound practice in another one.

The regulations necessary to prevent waste in a government that has fallen into incompetent hands would in many instances be unduly restrictive upon an able administration. Because of this fact the limit, to which such legislation may safely be carried, leaves much to be desired in the way of control, if the interests of the public and the taxpayer are to be reasonably protected.

One of the chief obstacles in the way of accomplishing any worthwhile and lasting results has been the unwieldy and disorganized nature of the whole local government structure. As I proceed to the second of these two phases, this lack of coordination is a major cause for present tax difficulties. In the State of Michigan (and I speak of that of which I know most, of course) there are 83 counties, 460 cities and villages, 1,269 townships, 6,878 school districts and an unnumbered host of special assessment districts. I am informed that there are more than a quarter of a million local political subdivisions in the country at large.

This host of disassociated tax-raising agencies cannot fail to weaken the public resistance to unwarranted spending. The multiplicity of responsible officials perplexes the citizen and paves the way for placing the taxing power in hands that may be incapable or unworthy. Public-spirited citizens seeking to bring about needed retrenchments find it necessary to dissipate their energies in a vain effort to keep watch over too many spending agencies until they become discouraged and give up the effort.

Meanwhile the tax spender finds the whole system playing into his hands. Officials created to administer but one form of expenditure find that their position assumes added dignity with each increase in the volume of public outlay. There is a constant temptation to seize every opportunity for expanding the scope of their operations.

I consider it one of the primary obligations of the State to assist in all practical ways in the simplification and unification of these scrambled local units, so that they will become more responsive to the public will. At the same time I am well aware that the demands along this line vary greatly as between the environs of a metropolitan center and the typical agricultural region, or the sparsely settled waste or timbered sections. In Michigan, the Legislature has authorized a special commission to study these questions, and I assume that this commission will consider these problems separately on their individual merits.

The simplification of local government may vastly reduce the difficulties of dealing with the local expenditure problems, but it cannot entirely remove the issue. There will always be a large number of local political units, and as time goes on more will be created for this or that special purpose, much after the fashion of the past. And while the standard of financing may be materially improved from time to time, it is safe to assume that there will always be room for further improvement.

Then, too, history assures us that while progress can be made in improving the local government structure, still there is perhaps more inertia, and more resistance to be overcome in this than in any other phase of public affairs. It therefore is doubly necessary to consider what steps the State may properly take beyond general regulatory legislation, or unification, as a means of promoting economy of local expenditures. Such an inquiry brings us to a consideration of the actual supervision by the State of affairs now left almost wholly with the local governments.

In point of law local government derives its authority entirely from the State, through constitutional or statutory provisions. It necessarily follows that the State may, by appropriate action, withdraw from the minor political units such of the delegated powers as may have been unwisely granted.

However, both central and local governments owe their existence to the popular will, and from early days the people have been strong supporters of local government. This is as it should be. In my opinion the most powerful factor toward perpetuating our American institutions is personal contact of the citizen and the public servant. Local government at its best is intensely human. Generally speaking, its officials are close to the people, and where this is not true discord and disorder inevitably follow.

In contrast, the State is of necessity more impersonal, more efficient perhaps, yet more guided by formula and rule-of-thumb. The people from whom all political power is derived may respect the State, but they cling to the local unit, sometimes with an almost fanatical zeal.

Under these circumstances it is impractical for the State to seek to exploit its full legal authority over local government, and it becomes the wiser course to seek constantly to create a relationship with the minor jurisdictions that will be based upon grounds which recognize that both the central and local branches of government are dignified by public sanction and that each has its own proper function to perform.

What, then, is the proper function of the State with regard to the supervision of local expenditures?

Obviously, it is the duty of the State to protect itself from the direct consequences of unwise local management. It occasionally happens that the State is called upon to underwrite or guarantee local activities, or to make good the losses from local enterprise. Wherever the State stands to be made liable directly for any

financial loss from local operations, it should, and usually does, retain widest authority of supervision over the whole field of expenditure involved in such cases.

Still more important is the duty of the State to protect the funds which it advances as grants-in-aid to the local communities. Throughout the Nation the volume of revenues collected by the States and returned to the local governments is rapidly increasing. In 1930 the State of Michigan returned \$22,500,000 to the school districts of the State with virtually no restriction upon the way this money should be used, and at the same time disbursed \$3,800,000 from the State highway fund for use by the counties upon local roads and streets. These items alone were equal to 30 per cent of the total tax revenues collected by the State central government. Additional millions have been appropriated by the Legislature just adjourned for similar uses, and still other important diversion bills failed of passage.

It is unnecessary at this time to enter into a discussion of whether this policy is wise. The fact is that it is in operation from one end of the country to the other. The case for it was ably stated in 1924 by a Joint Legislative Committee of the State of New York, as follows:

"The plain fact seems to be that the cost of the things which the State has delegated to the local political subdivision has increased more rapidly than the capacity of the local revenue system to expand. As the situation now stands it is the State and not the local revenue system which contains the most elastic elements and the greatest possibilities of increased productivity. The taxes which should be used to raise additional funds are for the most part taxes whose successful administration demands that they be State rather than local taxes. The solution of this problem would seem to involve either that the State relieve the localities of certain functions which it has asked them to perform, or that the State increase very considerably the amounts which it collects in taxes and then redistributes to the localities."

This policy of State aid adds a new phase to the duty of the State as regards the supervision of local expenditures, depending in some degree upon the nature of the aid.

Clearly, it is the duty of the State to do all that it can toward insuring the efficient and economical expenditure of such funds as it may return to the localities, and it would appear equally important that any local expenditures which result from the holding out of inducements by the State should be adequately safeguarded.

Grants made for the express purpose of reducing and equalizing local tax levies impose an even more pressing duty upon the State. Here the whole purpose behind the extension of State revenues will be frustrated unless adequate safeguards are provided to protect not only the State funds but also the residuum secured from local taxation.

What good does it do if the State returns State aid to the localities if the local agencies make up the residuum and add to the local burden that which the State has granted in State aid?

There is ample justification for the assumption by the State of the widest powers of supervision over accounting and budgeting—notice I use the word “supervision” as contradistinguished from the word “control”—the incurring and servicing of debt charges, and the general operations of those units which are the beneficiaries of State aid because of the claim of poverty. Such a wide extension of State authority need not conflict with the principle of home rule. Any conflict of this type can be avoided by providing that State aids of this type shall go only to those districts that are willing to submit to a reasonable circumscription of their spending proclivities in order to assure that the aid requested will accomplish the purpose for which it is given.

I have so far considered the question of State supervision only as applied to districts where the finances of the State itself are directly involved. This is not, to my mind, by any means the limit of the State's responsibility.

As I have previously pointed out, the multiple character of local government has created a mass of independent tax-levying jurisdictions, with overlapping borders and usually with no unifying authority short of the State. Each district is at the mercy of the others. A well-regulated civil and school government may be plunged into bankruptcy through an unwise use of the special assessment privilege vested in a third jurisdiction. Excessive spending for highway purposes may cripple education, or vice versa. Likewise the unsound financing by a few districts may injure the credit of all others.

Local units where finances are on a sound basis must look to the State for protection from abuse engineered in other neighborhoods, or by other jurisdictions with which they must share their own tax base, and this protection necessarily involves a measure of State supervision.

It is the plain duty of the State to surround the grant of financial independence to local districts with such regulations as will promote sound management. Moreover, there is a growing sentiment among the municipalities themselves to the effect that drastic powers should be reserved by the State for use in cases where local governments are guilty of an actual default. The example set by Massachusetts in the case of a defaulting community has been widely quoted. There seems to be an active demand that the State should assume virtually the powers of a receiver where the district fails to meet its obligations.

I have been greatly impressed with the need of some such authority, as a means of protecting the credit of other municipalities. However, it does not appear that the State can fully accomplish the object of protecting other districts without taking one or two additional steps beyond the imposition of what would amount to a receivership.

Where the locality has involved itself beyond the possibility of recovery inside its own resources, the State might assume the burden of guaranteeing local obligations. This is, of course, a most dangerous policy, since it would place the State at the mercy of local extravagance.

The other and more satisfactory step is the assumption of additional powers of regulation in advance of an actual default. The difficulty here lies in the fact that regulations sufficiently rigid to guarantee financial soundness are likely to be unduly restrictive upon local initiative in well-managed communities.

For this reason I adhere to the belief that the scope of State supervision should be broadened as regards those districts which show the signs which are common forerunners of default. Excessive tax rates and widespread tax delinquency may be cited as examples of such signs. I believe that, as tax rates and tax delinquency mount, the amount of State supervision over local expenditures should increase. Even here, however, I am convinced that the best interests will be served not by the imposition of harsh restrictions of uniform application regardless of need but by the more specialized supervision of a State department perhaps along the lines now found in Indiana, Iowa or New Mexico. If a proper supervision in advance of a default cannot avert that unfortunate occurrence, then I would be willing to sanction the assumption by the State of the responsibility to take over the full management of the defaulting community and to protect the faith and credit of the remaining local districts by whatever action seems necessary under the premises. However, I wish to emphasize that I consider such action justifiable primarily where the State has had adequate powers of supervision in advance and has failed in spite of such supervision to avert the calamity.

I have so far considered State supervision with regard to those instances where the direct interest of the State or the need of protection of other well-regulated local governments would in my opinion warrant the interference of the State without regard to local desires in the matter, and leaving the locality only the choice of avoiding the occasion for such supervision or else of submitting to it as gracefully as it can. I am persuaded that there is still a third condition upon which the State should assume supervisory powers.

Because of the widespread inequality in the distribution of wealth there is a vast difference between communities with equal populations, in the cost of government per person, or per dollar of wealth.

The immediate consequences of extravagance are more clearly discernible in the communities where wealth is least. However, this very fact is generally credited with encouraging an even greater wastefulness in the more prosperous places. Items of expense which invoke a storm of protest if superimposed upon a tax rate of \$40 per thousand may awaken little effective opposition in another place where the tax rate is but \$15.

It is to be recognized that the public is willing as a rule to pay something for the privilege of self-government, and that an attempt by the State to override the local will with no other thought than that of cold efficiency and economy would be resented almost everywhere and it is to be conceded that the State, being itself a political unit, is always vulnerable in some degree to the countercharge that it has failed to make a 100 per cent use of its own finances.

I do not consider it the proper function of the State to attempt to impose an overlordship of local finances against the will of a community that asks no favors of the State and has maintained a creditable financial standing. Instead, I believe the State should extend to such communities the widest latitude of choice in the management of its own affairs to the end that local initiative shall be fully capitalized.

However, I do consider that one of the alternatives, which should be open to such communities, should be the right, on the part of its people, by majority vote, to avail themselves of such measure of State supervision as they may of their own free will elect to accept.

This, in my view, is a step in the direction of strengthening the principle of home rule. The State should be prepared to advise and assist all local districts in the conduct of their spending operations, and the State's assistance should remain on a purely voluntary basis in so far as actual interference with the formulation of a legal budget or the incurring of a legal debt is concerned. But, where the people themselves may wish to curtail the authority of local officials and to vest additional supervisory or reviewing powers in the State, that opportunity should be at their command, and the State should be ready to accept the added responsibility.

Most of you are doubtless more or less familiar with the so-called "Indiana Plan" of controlling local expenditures. Under the Indiana laws, local budgets and bond issues are subject to review by the State upon the appeal of ten or more taxpayers. The act extends to all local jurisdictions.

You will note that my consideration of this question might be construed as sanctioning a modified form of Indiana's method of supervising local expenditures. This is true. At the same time, I do not wish to be construed as necessarily condemning the 100 per cent Indiana Plan or the still more restrictive law of New Mexico, where the jurisdiction of the State is established without the requirement of an appeal.

Where the people demand such a wide assumption by the State of supervisory powers, I believe this should be granted. The people of Michigan have made no such demands and I do not believe they ever will. Neither do I believe that there will be such a demand in most States.

My view may be summarized as holding that the supervisory duty of the State varies, as between three classes of local districts, as follows:

1. Districts operating in part upon the faith and credit of the State or enjoying State aids granted for the reduction of local taxes should submit to close supervision or forego such special assistance.

2. Districts where defaults occur or impend should be subject to supervision in proportion to the seriousness of the situation, as a protection to other better-regulated districts.

3. Districts which are in good financial condition should have the benefit of the advice and counsel of the State and, where a majority of the people themselves demand it, such measure of supervision as the people may choose.

I feel honored to have been permitted, a newcomer to statecraft, to speak on such an important subject. (Applause.)

CHAIRMAN CASE: I think the response shows the appreciation of the Governors for the very careful preparation and the splendid presentation of the subject by the Governor from Michigan.

The second subject on this morning's program relates fundamentally to the same matter, "Responsibility of Local Units of Government for the Expanding Tax Dollar." The Governor who is to speak to us on this subject is the Governor of Kansas. I know he is famous for one thing particularly. I was at the American Legion Convention in Boston not so long since and the Governor of Kansas and his opponent who ran on the Republican ticket were roommates and buddies and pals in the same room. He is now the Governor of Kansas and his colleague of that time is still his sincere and admiring friend. It is a great pleasure to introduce to you Governor Harry H. Woodring of the State of Kansas. (Applause.)

GOVERNOR WOODRING

GOVERNOR WOODRING: Chairman Case, Members and Guests of the Governors' Conference: It would be very hard to distinguish where the Governor of Michigan has left off on this subject and where I have commenced. The subjects are very similar in the treating of them, at least.

The subject assigned to me for discussion is "Responsibility of Local Units for Our Increasing Taxes." It is a subject which may be variously interpreted and might seem to call for the citation of tables of statistics in an effort to compute the exact percentage of our total tax burden that is levied by so-called local units. I have chosen to discuss the subject in a more general and possibly a more theoretical way. The tax commissions of each State make annual reports to the Governor; we receive on our desks each week statistics compiled by private and governmental agencies. Through these reports we have available all the statistics on this subject, and in fact all of us have a practical and extensive knowledge of most of its phases, so there would be no object in quoting statistics.

We all are aware that the annual tax burden of the United States exceeds 12 billion dollars (\$12,000,000,000) per year; that of this amount the Federal Government collects approximately 34 per cent, the States 13 per cent, and so-called local units, 53 per cent. It is, then, easy as

well as correct to assert that the State government levies but a small proportion of the taxes collected, and that real tax relief must be sought through a reduction in local taxes.

This statement is only relatively correct. An analogous situation may be found in the average family budget. Not having had the experience of some of you married gentlemen, I shall not attempt to use actual personal figures, but shall assume that a family with a monthly income of \$100 expends \$53 for food and clothing, \$34 for rent, water, heat, light, and telephone, and \$13 for incidentals, including recreation, amusements, sodas, tobacco, etc. Because of an economic depression it becomes necessary to reduce some items of the family budget. If the problem is viewed as the tax situation is generally viewed, we would say that the item of food and clothing is largest and that any substantial reduction must come through a decrease in the expenditure for this item. It is apparent that to view the reduction of a family budget from this viewpoint is absurd. It is likewise unsound merely to look at the tax statistics and start carving on local tax levies because they are the largest. In my opinion, the only sound way to appraise the responsibility of local units for increasing taxes is to analyze the expenditures of local units and if possible to ascertain their necessity. To do this in a general way is, of course, impossible. It may be observed, though, that approximately 30 per cent of State and local taxes is expended for schools, the proportion being approximately the same in both cases, but the total amount expended by local units is four times the amount expended by the State. The expenditure for general government of local units is approximately 7 per cent, and of the States 5 per cent of the total amount expended by each. The local units spend 17 per cent of their income for highways, and the States spend over 30 per cent of theirs for the same purpose. These proportions may vary in different States but are the approximate percentages in the United States as a whole.

It will be seen that when we dissect the State or local expenditure we find that the large percentage of the tax money is expended for those things which we think indispensable, and concerning which we are most reluctant to curtail expenditures. We spend enormous sums for education, but you can not convince the average father or mother that the schools are too good or the expenditure too great for their son or for their daughter. The American instinct is to demand the best education for their children, and no one would want it otherwise. The next large item is highways. To discuss a decrease in expenditures for highways in the West would be futile. The people are demanding more and better roads and are willing to pay the bill. The balance of our tax money is spent for social welfare, protection, economic development, and last but not least, debt redemption and interest, the latter two accounting for 14 per cent in local units.

As I stated before, it is easy for us, as Governors of our States, to decry large local expenditures, and with some degree of correctness, but the average citizen will never agree with us. He sees the real benefit of the local schools; he uses the local park; the local police answer his call, and his insurance rate is decreased by the efficiency

of his local fire department. He sees the advantage of a municipal airport or a land grant to a new industry. On the other hand, with the exception of the highway expenditure, he is not so keenly aware of the value of the State and Federal expenditures; unless he has a son or daughter in the State university, the value of the money expended by the State for education is not very apparent. The State conservation measures, penal and charitable institutions, and other State expenditures do not touch the life of the average citizen. Even more remote is the Federal Government. It is estimated that 40 per cent of the total tax burden in 1931 will be expended by the Federal Government. The average citizen views the post office and the United States Veterans' Bureau as the only Federal agencies of real benefit to him and his family, and views with helpless suspicion the enormous and ever-increasing expenditure of public funds by the Federal Government at Washington. In short, the local units return to the people more tangible benefits for their tax money than either the State or National Government, and therefore it is difficult to convince the taxpayer that tax reduction must start in the local governmental unit.

However, understand this brief for the local governmental unit does not destroy the fact that it collects and spends most of the Nation's tax dollar. I do not admit that the local unit is responsible for *increasing* taxes. Kansas hasn't any bonded indebtedness except the bonded indebtedness of the soldiers' compensation, and I have looked up the statistics on other States. In Kansas, in the past two years, there have been gradual general tax reductions in State, city, school and county tax levies and, in so far as Kansas is concerned, the only increase is in the Federal Government expenditures. The correct statement of the subject should be the responsibility of local units for high taxes instead of for increasing taxes.

I have been the Governor of Kansas for less than six months, but have been through one legislative session. I have been intensely interested in tax matters for several years and my observations somewhat lead me to a further defense of the local units. For example, in most of our Kansas counties and cities, as in the average State, the number of elective and appointive officers, their salaries and duties, are fixed by statute by State authority. The salaries of policemen and firemen in the large cities are fixed by legislative enactment. Our State Insurance Department requires the maintenance of certain standards in the municipal fire departments; the State Board of Health forces the expenditure of large sums for sewage disposal and other sanitary measures; our schools must conform to standards set by the State. In many other ways the State controls local expenditures, and high local taxes may be directly charged to the Legislature instead of the local governing body. In many cities of Kansas the local city council or commission has control of but a very small percentage of the public money expended. It might also be pointed out that in the spree of the past decade governmental units followed the average citizen in a period of free spending. Our expanding

desires and increasing prosperity in the years following the war created a demand for additional public service in recreation, education and public welfare. In a period of high prices indebtedness was incurred which must be paid in a period of depression.

Despite all these considerations the fact remains that local taxes have increased in the past few years and are now so high that a reduction is imperative. It is not enough to say that State and Federal taxes are too high also. Local taxes must be reduced and the solution of the problem thus presented demands the earnest study of the Governors of the United States who must display leadership in this, as in any other matter which touches the welfare of the State.

I shall disregard all propositions for new sources of revenue to relieve the burden of the property tax. Such proposals may be interesting and meritorious but are not pertinent to a discussion of tax reduction, but of course would be, you understand, in a discussion of tax revision. There is only one way to reduce taxes and that is to reduce expenditures. This can be done if the taxpayers wish it done, otherwise not. At the present time there is no mistaking the public demand for reduced expenditures of the tax money, and if we can definitely fix the responsibility for high taxes the problem may be solved. In the first place, I do not believe that the solution lies entirely in State supervision of local expenditures. There is no magic in a State appointment to the Tax Commission which gives a State official a keener insight into local tax problems than the local governing body which is often composed of men as able as the members of a State commission. The State can be of value by providing State agencies to advise and counsel local governing bodies, but I doubt the wisdom of giving State tax authorities actual control of local budgets. As I stated before, high local taxes may, in many cases, be traced to too much State control. I subscribe to the theory of government which permits the people to govern themselves within such limits as are necessary to protect the minority property owners and taxpayers. I believe that the State should adopt a policy of limiting the maximum tax levy or maximum per capita expenditure of local units and within such limit the local unit should be permitted to work out its own salvation. The maximum limit protects the minority without interfering too much with local self-government.

We hope in Kansas next year to adopt a constitutional amendment limiting the local tax rate in every community, thus protecting the minority taxpayer against improvident expenditures by any governing body. The elimination of the State general property tax by seeking other sources of revenue for the State government will place full responsibility on the local unit. This has been done in some States and we hope to do so in Kansas within two years. After eliminating the State tax upon general property and placing a maximum limit upon the local units, give them the largest possible measure of self-government, give them the benefit of the advice and counsel of State-employed experts, or do as we have in Kansas—encourage the organization of a voluntary association of local units. Such an association, maintained by dues, has established uniform accounting systems in over

250 municipalities in Kansas. It conducts audits and acts as voluntary adviser. Its findings act as a valuable standard of comparison for its members. Evidence of wider interest in this field is manifested by the establishment, under the auspices of the Rockefeller Foundation of the Public Administration Clearing House in Chicago, with an annual budget of \$60,000. Such voluntary private or semiofficial, nonpolitical agencies will be of more value to the local units than compulsory supervision by a political State commission.

The State may also aid by eliminating overlapping functions of State, county, city and school officials and departments. In most States we find State health officers, county health officers, and city health officers. We have a multitude of inspectors of hotels, barber shops, restaurants, drug stores, etc., all of whom perform duties which are also performed by local officers. A careful study of such overlapping services and their eventual elimination will decrease the tax burden in either the State or local unit, or both.

The old division of counties and townships has been in many cases rendered unnecessary by better transportation facilities. Today a sheriff, a coroner, assessor, and other county officers can adequately serve many times the area and population that could be served before the motor age. The township organization in Kansas and in most States is an obsolete institution and its abolishment would save money without reducing public service. A reorganization of county and township lines need in no case be regarded as an attack on local self-government but rather a reshaping thereof to the end that greater efficiency may be attained.

However, my subject did not include a discussion of remedies for high local taxes. The best remedy for high taxes is definitely to fix the responsibility where it belongs. My position is that, under existing conditions in most States, the responsibility for high local taxes can not be placed on the local governing bodies, but must be shared by the State. The elimination of any general property levy by the State will place full responsibility on the local unit. Then, with a maximum tax limit fixed by the State, give the local unit the largest amount of local self-government.

Then we Governors will be able to say to the taxpayer, as we can not honestly say now, that the local taxing unit is responsible for your high property tax. Until then, the State must accept a large part of the responsibility, and publicly washing our hands of blame for high local taxes will be, as it always has been, merely an empty gesture.

CHAIRMAN CASE: We are again indebted to one of the newer Governors and one of the younger Governors for a splendid exposition of the subject which was assigned to him.

There are two other subjects on this morning's program. I have talked to Governor Ely of Massachusetts very recently and he regretted exceedingly that he was unable to be present to discuss with us the question of "Highway Safety and Motor Traffic." The Governor has just been through some things in the State of Massachu-

setts—in the Commonwealth of Massachusetts—which would qualify him particularly to discuss that particular subject.

You have all heard the telegram read from Governor Gardner of North Carolina expressing his regret at not being able to be present with us this morning.

If I read the sense of the meeting aright, we shall not proceed to a discussion of any other subjects this morning, but we shall be prepared this afternoon at 3 o'clock to meet again in this room under the chairmanship of Governor Caulfield of Missouri, at which time Governor White will open the discussion on the papers of the morning.

I am reminded by the Secretary of the Conference that it is customary for the presiding officer, the Chairman of the Executive Committee, on the first day to appoint two committees, one an Auditing Committee and the other a Resolutions Committee. If the gentlemen whom I name will accept the appointments, I shall appoint to the Resolutions Committee: Governor Erickson of Montana, Governor Hardman of Georgia, and Governor Blackwood of South Carolina; and to the Auditing Committee: Governor Emmerson of Illinois, Governor Winant of New Hampshire, and Governor Parnell of Arkansas.

Are there any other matters that should come before us at this time?

SECRETARY HARDEE: May I ask that the Auditing Committee, as read out by the Chairman, meet us immediately after adjournment in the Secretary's office on the first floor so that we may audit the books of the Treasurer? The Auditing Committee is Governors Emmerson of Illinois, Winant of New Hampshire, Parnell of Arkansas. May I also call the attention of the presiding officers to the gavels? As a Governor goes along he accumulates some things that he takes with him that are reminders of very pleasant experiences that he had while Governor. Last year Governor Dern, in Utah, presented each of the Governors who presided over sessions of the Convention with a gavel appropriately inscribed. Governor Leslie hasn't let anybody do better than he has done, so he has provided a gavel with the name of the Governor presiding on it. and made, I believe, from the wood of a rather famous elm tree. So, Governor, you can keep that gavel as your own, and each succeeding Governor will be able to do the same thing.

CHAIRMAN CASE: I certainly will keep it with sincere appreciation.

If there are no further matters to come before the Conference at this time the Conference adjourns to meet at 3 o'clock this afternoon, and, gentlemen, will you kindly assemble at 3 o'clock promptly?

The meeting stands adjourned.

The meeting adjourned at 11:45 a. m.

SECOND SESSION

The meeting convened at 3:15 p. m., June 1, 1930; Governor Caulfield of Missouri presiding.

CHAIRMAN CAULFIELD: Come to order, please.

As indicated by the program—the printed program—the next hour will be devoted to an informal discussion by the Governors of the subjects of this morning's papers. This informal discussion, which, as I say, will be limited to one hour, will be led by Governor White of Ohio. I am going to call on Governor White to come forward at this time.

GOVERNOR WHITE (Ohio): Mr. Chairman and Gentlemen of the Conference, Governors and Guests: I had asked not to be called on in this Conference, being a freshman member. Of course confidence was given to me by the splendid addresses by two fellow freshman members, the Governor from Michigan and the Governor from Kansas. Because I was in the midst of a legislative session in Ohio, were it not for the short time to be over here I could probably not have come. As you know, we are in the midst of our taxation program there. The Senators passed a bill and the House wanted to give it consideration. As I told Senator Taft, Republican leaders of the Senate and the people of Ohio, as they often do, chose an Executive of one party and the Legislature of another. They chose a Republican House and Senate last Fall, and I had the full confidence of it that the Legislature would proceed in orderly fashion while I might come over here two or three days to enjoy this session with you.

We have changed, by constitutional amendment, from a uniform tax law under which I might say we prospered in the State for 80 years, but it was apparent that some change must come over that from the uniform tax rule, because while that applied when Ohio was an agricultural State it did not work out as the population went into urban centers, and after some five attempts on the part of those who advocated classified taxation the amendment was carried two years ago and the Legislature is now working out the problem, of course a very serious problem and unfortunate, perhaps, to those of us who believe in classified taxation, as you can readily see in these periods of depression. Looking toward income tax with reduced income from intangibles, and identified in the campaign, the tax on intangibles has depreciated very seriously.

Another reason I did not want to speak very freely here, we are so close in telegraph lines, and I believe I said to the Legislature, "I believe in coordinate powers of the Executive and the Legislature, and it is their responsibility," and I might say up to ten days ago I thought that they might not be able to function as would be proper for the Executive to do to give a definite program, but they have happily worked out of the seeming confusion and are on a definite program of legislation.

I jotted down—not like the man who said he was unexpectedly called on for a speech and forgot part of it and drew out a manuscript—just a couple of pages to give you an idea of what we are doing.

There are two plans for the regulation and control of local expenditures and touching the two very able papers read this morning, now being considered by the 89th session of the Ohio General Assembly.

FIRST PLAN: The first plan originates in a special joint Committee on Taxation of the House and Senate.

It proposes to supplement the existing local authorities vested with the power of budget making, bond issuing and special levies by the addition of an elective body of three persons within the county. These persons are to be chosen by popular vote and serve without pay. I said to some of the members of the Legislature: "I hope it will work, and I trust in Ohio and in the local unit counties to make that proposal work out." The County Auditor will serve as secretary of this newly established Commission and furnish the clerical help. This newly established Commission will possess drastic powers over the existing tax raising and tax spending bodies.

Then to supervise and stimulate the work of these County Commissioners, it is proposed to set up a State Commission to consist of three persons, one of whom shall be the Governor or some member of his Cabinet designated by him. The second, the State Auditor or some deputy named by him, and the third, the Attorney General or some one of his assistants named by him. This State Board will have power to employ one or more competent deputies to canvass the State and advise, encourage or criticize the work of the County Budget Commission.

Just briefly, a new departure for Ohio (and I think perhaps not many States follow the measure I have backed in the Legislature) provides for 2 mills on all deposits in banks and building and loan associations, and a meeting of the leaders of the banks and building and loan associations have agreed to absorb that tax, and we think it will bring out much more money at the low millage than the old rate, because as far as we could find under uniform taxation we only received 15 per cent of the total deposits of the State.

We are taxing intangibles not yielding dividends 2 mills; then, with rather a combination of the Massachusetts plan on tax of intangibles, taxing 5 per cent of the yield of the dividend-paying securities. Of course $2\frac{1}{2}$ mills we figure on intangibles without regard to the income. Those are the outstanding features of our bill.

SECOND PLAN: The second plan, which originated with the Ohio Chamber of Commerce, is embodied in a bill which has been reported favorably by the House Committee on the County Government and is now before the special adjourned tax session of the Ohio General Assembly. This is a modification of the well-known "Indiana Plan."

It would use the existing State Tax Commission as a State Board of Review of local expenditures. Touching the two papers read this morning, it would not, however, vest in the State Tax Commission the arbitrary powers possessed by the Indiana Tax Commission for vetoing local bond issues and expenditures. When 15 taxpayers appeal to the State Tax Commission of Ohio regarding any proposed special levy or bond issue, the State Tax Commission shall review the proposed undertaking for the purpose of making a finding and recommendations with respect thereto. The Indiana Plan could not be applied in Ohio because of the freedom with which popular voting is used to hold down public expenditures already. We are a neighboring State and have much the same people, but they don't feel that people, however, go that far, although I understand the Indiana plan is working splendidly. No legislature would think of passing a bill vesting in the State Tax Commission the power to veto the vote of the people on expenditures—unless, of course, the people voted some strictly illegal issues. All the Ohio Tax Commissioners could do under the second plan now under consideration by Ohio would be to turn on the searchlight, so that the people might vote intelligently on any issue then before them.

IN GENERAL: Some plan for checking local extravagance is greatly needed in Ohio, as it doubtless is in every other State in the Union. During the 17 years from 1910 to 1927, the indebtedness of school districts in Ohio increased more than 1,200 per cent. The indebtedness of other local tax districts increased around 400 to 500 per cent on the average. This cannot go on forever; there must be a halt.

There was evidence in the discussion this morning.

Just reflecting on the whole program, I don't know that I could start, and probably shouldn't start, the discussion this afternoon by criticizing the two able papers read. I know the gentleman from Kansas came along to the end to rather agree with the gentleman from Michigan, but this can be said about it: In my experience in Legislature and Congress, we have with the Nation tried to escape taxation in our local units, whether you call your local unit a State. I well remember when we had the Federal aid to road building come up. I am not criticizing. I voted for it, but just drawing the principle that States reached out in the Federal money to help them build roads. They go into other activities. The counties and the townships looked to the State capital and, as I said to a member of the Legislature, the most popular tax would be to let the other fellow pay the tax. That had been too much the trouble, of course, in this country. Now with this depression we have met and are experiencing it seems as though the end isn't just around the corner, although of course we know we shall come out of it. It has been a time when we as Governors have been charged with responsibility, with the sign "Stop, Look and Listen," with self-examination as a Nation and as a State, in the county and township as local units. It is a most serious time, but I think a helpful time. It would be well after that carousal, you might say, of eight years, to get down to basic facts. Somebody must pay the tax. If

Ohio reaches into Washington and Pennsylvania reaches into Washington and Texas reaches into Washington and get money out, someone must pay it, and the ultimate consumer pays at every turn of the road. The ultimate consumer is thinking. He is asking questions; he is asking the Governors to curtail expenses; he is asking his local elective officers to curtail expenses, and his will will be done, and in democracy it must be done. I believe out of all this we shall work out a more satisfactory system of taxation. We have, as a Nation, solved every serious problem that ever faced us, and I believe we are perfectly competent to solve this problem, but we must ever be mindful that while you may defer, or ask one unit to pay the tax and avoid it in any particular unit, it finally comes back and must be paid by the taxpayer. I believe, of course, that the tendency of the time is to review from a centralized government the State administration, but there is always the thought, and it is hard to give up, that the local unit, county or township, familiar with the operation, familiar with the work to be done, can best determine the work of its servants. So there is a happy middle ground, I might say, referred to this morning, with perhaps a review, a general control of the subdivision, but still it must rest primarily on the township, on the county, as a unit.

I surely feel that as a new member, a new Governor—my first experience—I may be able to keep my ears open and absorb a great deal of wisdom from the men who have actually battled with conditions in their several States and go back to the battle in Columbus with a better knowledge of taxation. Thank you. (Applause.)

DISCUSSION BY GOVERNOR DERN

CHAIRMAN CAULFIELD: The matter is open for discussion. Governor Dern, do you wish to be heard at this time?

GOVERNOR DERN (Utah): Mr. Chairman: Inasmuch as I am on the program for a formal subject in the morning, I think it would be an imposition on my part to occupy much time this afternoon, and I feel as if it would be more appropriate for me to be very brief in anything I might want to say.

Just one or two points that came to my mind in connection with the two excellent papers we heard this morning. I think we all ought to appreciate the fact that increased taxes are only due to increased public activities and increased public activities are due to the demand of the people for those activities. Public officials don't wish these new activities upon the people; they come in response to a demand for them. When those activities are increased of course they have to be paid for.

It is true, as we said this morning, that the big burden of taxation is the local burden. I have found at home that when people talk about high taxes they generally look toward the State capital. As a matter of fact they are barking up the wrong tree because the State taxes are a pretty small proportion of the total taxes. In Salt Lake City, for example, the total levy is 33 or 34 mills on the dollar, and the State general fund levy is 2.4 mills, and it is frequently said the State taxes

might be abolished entirely and the other taxes wouldn't be materially reduced. In addition to the general State fund tax we have the levy for the district school fund, which is nearly twice as high as the levy for general State fund purposes. But the point I want to make is that the administration cost of the State government itself is a relatively small item in the cost of government, and it seems to me a great many people spend too much time talking about the cost of State government, because after all that is a relatively small part of the taxes that we pay.

Not that I want to minimize the importance and the necessity of being economical and efficient in the administration of State affairs, but I want to make the simple and very practical suggestion, it seems to me, that while we talk about State taxes we musn't forget that we ought also to talk about county and city and school taxes.

Another point that frequently occurs to me, and a great many people overlook, is that these new State activities which are created in response to a public demand, and which increase the taxes, don't necessarily mean that the taxpayer's expenses are increased, because it simply means he is transferring a part of his expenses from his ordinary personal expenses to his tax account. If we didn't have a public health service I have no doubt we should all pay bigger doctor bills, for example. That is just an example of where we transfer a part of our expenses to the State, because we think the State can do it more cheaply than we could do it ourselves. I have adopted as a maxim that anything that can be done more economically and more efficiently by cooperative enterprise than by the individual alone is a legitimate State function. It seems to me that is a safe rule. It seems to me that anything that the people in the united capacity can get for themselves more cheaply than if they do it individually may very properly be done by united effort and be made a governmental activity.

Of course the fact that we do, in response to public demand, set up a great many new activities means that as time goes on these new activities are set up without any proper coordination and a rather inefficient system develops. For that reason it becomes necessary now and then to have a reorganization of our State government, and that is one of the subjects that we have talked about somewhat here, and I think was to have been discussed at considerably more length if Governor Gardner had been here this morning.

I don't want to take time to go into that at all, but in order to make the Government more efficient it is necessary of course to correlate these various activities that have been authorized by the Legislature and make them function at the least possible expense.

I received in the mail last night (I don't know whether the other Governors got a copy of it or not) a pamphlet by Cornelius A. Wood in Boston, in which he suggests a number of Government economies, which seems to be quite a thoughtful document. I shall just read the different subjects which he mentioned as possibly places where economies could be effected:

First, fewer elections. He thinks we have too many elections and could save a good deal of money if we didn't have so many elections. In the State of New York it costs \$1,250,000 to hold a State election, which could be a considerable sum of money. It would be so considered in Utah, anyway. He goes into considerable detail on that.

The consolidation of political units. I think Governor Byrd of Virginia suggested a few years ago a good deal of money might be saved if counties were consolidated. He said we had too many counties. Especially nowadays, with the automobile, county officers could serve a much larger area than they could in the old horse-and-buggy days.

Improving the form of government is the third point. Fourth, shorter ballots, electing fewer officers. I shall refer to that in my formal address tomorrow morning to some extent. Biographical ballots and penalty of nonvoting without cause. I am not going to discuss the different points he mentioned, but there are of course a good many places where economies could be effected.

Sometimes people overestimate the importance of economies of that kind. In our Legislature this Winter we had a group that wanted to cut and slash everywhere to save a few thousand dollars here and there, all of which was very laudable but would not have accomplished what they thought it would accomplish. They thought they were going to save money for the taxpayer. As a matter of fact the levy couldn't have been reduced by the reduction of \$100,000 or \$200,000. It would sometimes have been necessary to levy the same amount and simply have probably a little more or less money left in the treasury at the end of the biennium, all of which is important, but, after all, the economies that are going to affect taxation must be considerable in amount.

Governor White has talked about his tax fight in Ohio. We just had a similar one in Utah. We adopted some constitutional amendments last Fall by means of which the uniform rule was abolished, something Ohio has been trying to do for many years. Our Constitution now permits us to tax intangible property either at a low rate or else to tax the income thereof. We chose the income-tax method. I have been of the opinion that a tax on intangibles is not a very feasible tax because it always seemed to me if a person can evade a tax at a high rate he can still evade it at a low rate, and I don't believe the mere fact that the rate is going to be low will be a means to bring the intangible property for taxation. It seems to me it would be more effective to tax the income, so Utah now has an income-tax law on its statute books which will go into effect and be applied at least for the first time next year on this year's interest.

One of the things in connection with our program was equalization of educational opportunity. We regarded that as very important. It seemed almost fundamental to us that every child was entitled to a decent educational opportunity. In our State there are counties in which there are no railroads, no public utilities of any kind, and a limited amount of taxable property. In some

of those counties the people assess themselves at rates about twice as high as the rates in Salt Lake City, and yet even at that they can only maintain six months of school. It always seemed to me that was very unjust, and that the children in those counties were entitled to decent educational standards just as well as the children in the cities. So we have created a fund for the equalization of educational opportunity, which means, of course, State aid for the schools of those remote and poor counties, which principle, I think, is sound, and I have been committed to it, and our Legislature and, I think, the States as a whole, believe in that principle. Of course, there is always some opposition to anything that is going to take money away from richer counties and give it to the poorer counties. You can't get away from that more-or-less selfish reaction, but the people as a whole I believe are disposed to be fair on those things and this measure I am sure will justify itself. (Applause.)

GOVERNOR PINCHOT (Pennsylvania): We were unfortunately deprived this morning of the opportunity of hearing the road discussion because of the absence of certain Governors. I should like to make what I believe is really a weighty contribution to that discussion by depositing on the desk of the Chair and presenting to the Governors one copy of the road bill which has just passed in the State of Pennsylvania, adding 20,000 miles to our road system, making 33,000 in all. (Applause.)

I have also been requested to present the report of the National Committee on Prisons and Prison Labor, which is presented every year at this Conference, on the State use of prison-made goods.

The report on "State Use of Prison-Made Goods," by the National Committee on Prisons and Prison Labor, presented by Governor Pinchot of Pennsylvania, is as follows:

"According to the precedent established through a series of years, we beg leave to present the following report:

"The Conference of Governors in Indiana in 1923 was warned by Governor E. Lee Trinkle of Virginia that a complete reorganization of the methods of employing prisoners in the several States was becoming more and more imperative and that an emergency was imminent.

"Since that time the development which was then predicted has taken place. Congress has enacted legislation, known as the Hawes-Cooper Law, which will become effective in 1934 and will lead to the discontinuance of the contract system through rendering prison contracts unprofitable. Already the prison contractors are withdrawing from their contracts and by 1934 work must be provided for all the prisoners now under contract, together with the many thousands crowding into the prisons for whom at present there is no work. Otherwise riots and scandals worse than those of 1929-30 will ensue.

"The National Committee on Prisons and Prison Labor emphasizes its warning and points out that the walls of the prisons are bulging; the intake of prisoners is exceeding the outgo; long sentences are

killing hope and breeding recklessness and despair; the efforts of law enforcement agencies to reduce crime on the outside are being nullified to a great extent by the conditions in the prisons; and hundreds and thousands of prisoners are being discharged monthly, embittered by what they have endured, to take their place in the intelligent, ruthless, well-organized and well-financed army of those who are at war with law and established custom.

"At the last Conference of Governors, reports were presented from zone Conferences on State Institutional Labor. During the year these conferences have had worked out for them by groups of experts the agreed formula for approaching the several phases of their problem:

"I. A study of the different types of prisoners in order to fit them into the institutional life and to fit the institutional life to their needs, thus eliminating waste and cutting down cost. A report is now available on what is known as 'Classification of Prisoners.'¹

"II. Based upon this classification the proper types of buildings have been studied and criteria set up. A statement of this will appear in *The Survey* on June 15. This will form a basis for the work of the experts now being loaned by the material concerns which are working out the most modern and approved methods of construction of prisons with a knowledge of the prison population and right housing.¹

"III. There is need of setting up an adequate system for the management of prison industries. Those at present functioning as the officials of States operating under the system known as State use have combined their suggestions in a pamphlet which will guide any State in the development of its prison labor system.¹

"IV. The Committee wishes to express its indebtedness to organized labor and organized manufacturers for the assistance which they are rendering toward the development of adequate prison industries. Suggestions as to how this assistance may be secured are contained in a small pamphlet describing the method of setting up State Advisory Committees on Prison Industries.¹

"V. As a phase of State production for State consumption there is need of building up a State farm system which will be modern and to guide this development a manual has been prepared.¹

"Our prisons have become so congested by an extraordinary number of convictions that even the provisions which would be adequate

¹ Pamphlets available through National Committee on Prisons and Prison Labor, 250 West Fifty-Seventh Street, New York City:

"Classification of Prisoners" (report of a preliminary survey).

"Planning the Fall of the Bastille" (a scientific approach to the solution of the problem of prison architecture. *The Survey*, June 15, 1931).

"Fundamental Principles for the Establishment of the State Use System of Employing Prisoners."

"A Proposal for State Advisory Committees on Prison Industries" (a plan of organization).

"Institutional Farms and Farming" (a preliminary report prepared for the use of the Eastern-Southern and New England Conferences on State Institutional Labor).

in normal times have become entirely inadequate. To relieve this congestion the proposal has been made that groups of prisoners who can be trusted on public works projects should be employed in this way extensively as possible. There are those who contend against the State's development of road-building and other public works projects in which the State invests in machinery and uses the prison population. This contention has more weight at this time than it would under ordinary industrial conditions, but we know that large scale reclamation of waste lands by various methods of reforestation, etc., is contemplated. We realize that the Conference of Governors has inspired a Congressional investigation and that there appears to be an accord between its program and the plan suggested by President Hoover. It is not within our province to participate in the plans for this development, except to urge their immediate completion and the use of the surplus prison population in connection with these projects wherever the conditions exist which do not make practical the employment of free labor. We hope if this Conference of Governors should take any steps in this connection that we may be permitted to make suggestions to this end.

"Despite the emergency which the general problem of unemployment has presented, we do not hesitate to point out that the meeting of the present emergency in regard to the prisons and the labor of their inmates is one which strikes most vitally at the heart of each Commonwealth. We have confidence that the prison authorities are exerting every effort within their power to meet the situation. The next year and a half can bring more accomplishment than has been secured in a decade, provided the problems are faced without fear or favor. Hesitation, procrastination, combined with increased general idleness and arrogant lawlessness, will turn the prisons into a pile of smoking ruins. The task to be done is outlined clearly and is available for every Executive. Public acclaim for accomplishments of results will be his reward.

"(Signed)—E. STAGG WHITIN,
Chairman, Advisory Council.

"(Signed)—GEORGE GORDON BATTLE,
President.

GOVERNOR PINCHOT (Pennsylvania): I also have four copies of the new rules of the Board of Pardons in Pennsylvania, which eliminate the necessity for men seeking pardon to employ lawyers, which I would also like to leave here.

The "Rules of the Board of Pardons of the Commonwealth of Pennsylvania," placed in the record by Governor Pinchot, follow in full text:

I. MEETINGS AND HEARINGS

The Board will meet in open session on the third Wednesday of each month, except July and August. The meetings will be held in the Supreme Court Room, Harrisburg, at 9 o'clock a. m., Eastern Standard Time. Applications will not be heard or considered by the individual members of the Board.

II. CAPITAL CASES

(a) Applications must be filed with the Secretary of the Board at least two full weeks before the day of the regular meeting at which hearing is desired.

(b) A certified copy of the court record, including the docket entries, minutes of the court, copy of indictment, pleas, verdict and sentence, must accompany the application.

(c) Notice of intention to apply for clemency, accompanied with an exact copy of the application, must be served on the judge who tried the case if living (or if the trial judge is dead, on the present president judge of the court), on the district attorney (and if he is not the district attorney who prosecuted the case, also on such former district attorney), on the assistant district attorney, if any, who actually tried the case, and on the private prosecuting attorney, if any.

Service of such notices and copies of the application must be made before the application is filed.

(d) Notice of the filing of the application must be served on the Warden or Keeper of the penitentiary or prison in which the applicant is confined.

This notice must state when the application will be heard, must give the true name of the applicant, the name under which he was indicted, the crime of which he was convicted, the number and term of the indictment, the sentence imposed, and the grounds upon which he is seeking clemency.

Every such notice must be served at least ten days before the date when the case is regularly scheduled to be heard by the Board.

(e) Affidavit of proof of service, or acceptances of service of the notices required, must be filed at least five days before the day of regular meeting.

(f) Notice of the application must be advertised once a week for two consecutive weeks prior to the meeting of the Board at which the application is regularly scheduled to be heard. Such advertisement shall appear in a newspaper of general circulation, printed in the English language, in the county in which the applicant was convicted and shall state the true name of the applicant, the name under which and the crime of which he was convicted, that the applicant was sentenced to death, that he has applied for clemency, and the date on which the application will be heard.

Proof of publication of the advertisement required by this rule must be filed before the day of hearing. Proof shall consist of an affidavit by the owner or an authorized agent of the owner of the newspaper, with a copy of the advertisement attached.

At least five days before the day upon which the application is to be heard a transcript of the notes of testimony taken at the trial must be filed with the Board. If the notes were not transcribed, that fact must be certified by counsel and a brief summary must be filed in lieu of the transcript. If the applicant could not, because of lack of funds, procure a transcript of the testimony, that fact may be certified to the Board, and in such case also a summary of the evidence may be filed in lieu of a transcript. An agreement in writing between counsel for the applicant and the district attorney that an appended statement covers the material facts in the case will be accepted in lieu of the transcript of testimony when a transcript is not available.

(g) Letters or petitions from responsible persons in the community may be filed with the Board on the day of the hearing or at any time previous thereto.

(h) A schedule or list of all papers filed shall be delivered to the Secretary of the Board not later than the day of the hearing.

III. OTHER CASES

(a) In all cases other than capital cases applications may be filed with the Secretary of the Board at any time. Nine copies of all applications shall be left with the Secretary, who shall immediately, upon receiving the same, transmit one copy of the application to the trial judge, if living, and if not living, then to the president judge of the court or of one of

the courts of the county in which the applicant was tried; one copy to the district attorney or assistant district attorney who tried the case, and, if the district attorney in office at the time of the trial is no longer in office, also a copy to the present district attorney; one copy to the President of the Board of Trustees of the penitentiary in which the applicant is confined, or if he be not confined in a penitentiary, then one copy to the head of the Board of Inspectors of the prison in which the applicant is confined; and one copy to the State Supervisor of Paroles.

(b) In transmitting copies as directed by the preceding rule, the Secretary shall request each of the persons to whom a copy is transmitted to advise the Board of Pardons within 30 days if in the judgment of such judge, district attorney or assistant district attorney, State Supervisor of Paroles, or in the judgment of the Board of Trustees or Board of Inspectors of the institution, as the case may be, the application for clemency is meritorious, and if, from such information as is available, he or it believes that the applicant can safely be released from prison, together with any facts bearing on the case which would be of assistance to the Board of Pardons in its deliberations.

(c) No application received shall be considered by the Board prior to its meeting occurring at least 30 days subsequent to the filing of the application.

(d) After the Board has received replies from the judge, district attorney, or trial district attorney or assistant district attorney, Board of Trustees or Board of Inspectors, and the State Supervisor of Paroles, it shall consider the application and the replies received and shall determine if the application is worthy of consideration in open hearing. If it shall be of the opinion that the application is not worthy of hearing, it shall forthwith refuse the application; and if it shall determine to hear the application, it shall notify the applicant and place the case on the list to be heard at the next open session of the Board occurring at least three weeks after the listing of the case.

(e) The Secretary of the Board shall post in his office at Harrisburg, immediately after the list of hearings for the ensuing month has been prepared, a copy thereof; and he shall, on the second Friday following the preparation of the list, advertise the same in a newspaper of general circulation, printed in the English language, in Philadelphia, Pittsburgh, and Harrisburg, and in the legal journals in Philadelphia and Pittsburgh. Such advertisement shall state the fact that applications for clemency will be heard on a date stated by the Board of Pardons and shall give the names, aliases, crimes, counties in which convicted, and places of confinement of the applicants whose cases will be heard.

(f) It shall not be necessary for the applicant to submit to the Board a transcript of the notes of testimony or a brief summary of evidence in lieu thereof unless the Secretary of the Board shall request the applicant or his counsel to do so. If such request be made, the transcript or summary of the evidence in lieu thereof must be filed with the Board not later than five days before the date set for the hearing of the case.

(g) Letters and petitions relating to any case to be heard by the Board may be filed up to and including the day of hearing.

(h) The Board will not hear any application in the case of a person sentenced to a county prison, until the applicant has made application for parole to the trial court, and such application has been refused.

IV. APPLICATIONS

All applications for clemency must be filed on forms supplied by the Board. Ten copies of the necessary form will be supplied to any applicant upon payment of a fee of \$1. In noncapital cases an additional fee of \$5 will be charged, the same to cover the cost of advertising as hereinabove directed.

All applications must be typewritten and must be signed by the applicant.

V. HEARINGS

In capital cases unlimited time will be allowed the applicant, and one-half hour will be allowed to any person or persons opposing the applications. In cases other than capital cases 15 minutes will be allowed to the applicant and 15 minutes to any person or persons opposing the application.

Limitations of time will be strictly enforced unless the Board shall, upon request, extend the time in any case.

VI. CORRESPONDENCE

All correspondence relating to any application, whether addressed to the Board, an individual member or officer thereof, will be filed with the Board.

The individual members of the Board will not discuss pending cases except with the judge, district attorney, trial district attorney, or assistant district attorney, and members of the Board of Trustees or Board of Inspectors, or Warden or Keeper of the institution in which the prisoner is confined.

VII. REHEARINGS

(a) Petitions for rehearing of applications which have been refused may be submitted, provided new and substantial grounds or reasons not before presented are set forth.

(b) All such petitions must be filed on forms supplied by the Board and must have attached to them copies of the original application for clemency.

(c) Nine copies of every petition for rehearing must be filed with the Secretary who will follow the same procedure as in the case of an original application.

(d) The fee for forms and for advertising shall be the same as in the case of an original application.

(e) In no case will a petition for rehearing be considered until six months have expired since the refusal of the original application.

VIII. PROTESTS

Any person interested adversely in an application for clemency may appear at the hearing of the case without notice to the applicant and may state his objections. Such person may also file formal protest in writing with the Board at any time prior to the hearing.

It shall not be necessary for the Secretary or any protestant to notify the applicant or his counsel of the filing or the substance of any protest.

IX. DEPOSITIONS

If it should become necessary to establish by deposition the truth of any disputed matter of fact relative to any issue before the Board, such deposition may be taken under the rules of court of the jurisdiction wherein the deponents may be, but notice of the time and place of the taking of depositions must be served on the district attorney, as provided by the rules of court of the jurisdiction wherein the conviction was had.

X. CALENDAR

(a) The Secretary will prepare and cause to be printed a calendar of the cases to be heard by the Board at each of its open sessions. Copies of the list will be furnished to each applicant or his counsel, the district attorneys of the counties in which the applicants were convicted, and to Wardens and Presidents of the Boards of Trustees of the several penitentiaries.

(b) Cases appearing on the calendar will be called in their regular order. If there be no answer upon the first call of the case, it will be passed temporarily; and, if not answered when called a second time, the case will be marked "Refused," unless satisfactory reason for failure to answer be presented.

(c) Applications listed on the calendar may be withdrawn at any time and, when withdrawn, may be placed on any subsequent calendar upon application to the Secretary, provided that such application shall be made before the day for advertising the list of cases to be heard at the meeting

of the Board at which applicant desires his case to be heard. All such cases shall be included in the advertised list of cases to be heard.

(d) Continuances will be allowed only on formal application made in open session on the submission of satisfactory reasons.

XI. RECOMMENDATIONS FOR PAROLE

Recommendations of Prison Inspectors, Wardens and Sheriffs, for commutation under the Act of 1901 and its supplements, and recommendations for parole under the Parole Acts, with proof of publication and notices as required by law, must be filed at least 11 days before the day of regular meeting. Such recommendations will be included on the printed calendar.

XII. NOTICE OF ACTION OF THE BOARD

(a) After hearing applications in open session the Board will consider the same in executive session. Announcement of the action of the Board will be made by the Secretary as soon as practicable after the adjournment of the executive session. Written notice of the Board's action will be forwarded by mail to the respective applicants or their counsel and to the district attorney of the county in which any applicant was convicted if the district attorney appeared at, or sent a representative to, the hearing.

(b) When favorable action on an application for clemency is recommended the finding of the Board, with reasons, will be transmitted to the Governor, and if approved by him and an order for pardon or commutation follows, the charter of pardon or of commutation will in due course be forwarded to the Warden of the proper prison.

Adopted and effective February 18, 1931.

GOVERNOR ROOSEVELT (New York): We have heard about this Indiana Plan. I know very little about it. I think it would be fine if Governor Leslie would describe the Indiana Plan to us.

CHAIRMAN CAULFIELD: I wish you would, Governor Leslie. (Applause.)

GOVERNOR LESLIE (Indiana): Mr. Chairman, Members of the Conference, and Friends: I don't feel that it is exactly right that one from the State in which you are holding your meeting should take your time. There are so many matters that want to be discussed that came up this morning that I am really very pleased to have a word to say about the plan we have used with a great deal of success. Indiana has always followed the idea that if they have anything good they would like to pass it on.

I was very much interested in the papers this morning. They were very well written and very well delivered and placed before us, and it was a very important subject.

I am glad to have an opportunity to give you some idea of our plan here in that it follows directly as an answer upon the heels of the question placed before us by the Honorable Governor of Michigan. It would hardly be right for me to criticize, and I shall not, the paper following his paper. The principle was a little different than that we are making in an honest effort to put over in our State, and I think I shall be able to give you an idea of one or two instances of where placing matters wholly with the local people is the one thing we should be very reluctant to do.

I have a paper in a way outlining what we do that I trust those who were here this morning will read very carefully, along with the

papers of this morning. There were many questions that came to me I wish I might have been able to remember and answer them directly to you today, but you will have that paper and the few things I am going to say I trust you will remember.

Some of the things I remember are control, or supervision. We hardly claim control, nor do we hardly claim complete supervision; so I may read the statement I have written. Then I will give you a few concrete illustrations of where it has worked to the benefit of the State that we should have the Indiana Plan controlled or supervised to a certain extent by our Tax Board. I am merely dealing with the two years with which I am familiar on taxes in Indiana—the years 1929 and 1930.

TAXES IN INDIANA

We have gone through a period during which Federal taxes were reduced while local and State taxes, taken the country over, revealed disturbing increases. Various economists who studied the situation pointed out that if citizens were to be afforded tax relief they must begin the reform movements at home. Therefore, it became our purpose in Indiana to demonstrate that local taxes can be lowered as easily as Federal rates, and there is no mystery about the manner whereby this plan was carried into action. I believe one of the papers this morning said it was a mystery. I contend it is not a mystery. First of all, the necessary machinery was needed—and the General Assembly provided that. It gave us laws relating to taxation, budgets and the duties of public officials. These same statutes provided that if taxpayers have reason to feel that budgets contain unnecessary items, or if proposed levies are too high, any ten of them living in the affected territory may appeal to our State Board of Tax Commissioners and a hearing is conducted in the county where they live. If the State Board feels that the prayers of the petitioners are just, it has the legal authority over budgets and levies to make whatever adjustments it deems fair in the premises.

Having this machinery, the next move was to persuade the taxpayers to use it, and during the last few years they have functioned in their own behalf to such an extent that few proposals for the expenditure of public money are made now unless there is an excellent reason for the project.

The Indiana Plan, as it has become known, has attracted attention throughout the country, and we might cite instances where it has been copied in whole or in part. Its simplicity makes it readily available, and the speed with which it operates prevents delays or crowded dockets. Let us illustrate how the plan works in action: A petition is filed in a certain township, bearing the names of several citizens, seeking the paving of a local highway. The cost of such an improvement must be defrayed by an issue of bonds, and a rough estimate of the total needed is included in the petition. Let us assume that the proposed bond issue is placed at \$100,000. Ten taxpayers of that township become convinced that the bond issue proposed is too high; that they will be burdened with more interest than they should be

required to pay, and that with such a sum of money available the cost of the highway improvement will be greater than is necessary. So they petition the State Board of Tax Commissioners for a review of the proposal. A hearing is held in the county where the township is located, and evidence submitted for and against the petition as filed. The State Board has its own engineers and staff of experts. It knows what such a highway should cost, and it may scale down this particular improvement to \$75,000 or less; or it may decide that the whole project is both useless and extravagant, with the result that the petition is denied. Any way the case is decided, the taxpayers have reason to feel that if they do spend their money they are assured a dollar's worth of honest work for every dollar expended.

Last year the appeals to the State Board of Tax Commissioners, in connection with proposed bond issues, involved a total of \$4,917,343. The State Board approved \$2,681,033 of such bonds and disapproved \$2,236,310. During 1929 the appeals had to do with proposals amounting to \$7,705,359. That year the State Board approved \$4,056,147 and disapproved \$4,649,212. There were 134 appeals from 83 taxing units in 1929, and proposed expenditures were reduced in the sum of \$3,269,091. In 1930 appeals numbered 116, and the reduction was \$1,286,909. The total reductions for 1930 amounted to \$4,821,383, which included \$3,535,474 in reduction from the former year's budget and enabled Indiana to make a net reduction of 3 per cent in such expenditures, while Federal census reports indicated that the increase for the several States, taking the country as a whole, was approximately 6 per cent. While they increased 6 per cent, we reduced ours 3 per cent.

These appeals are not limited to bond issues. They may be taken in connection with any budget item or any proposed tax levy. In addition to the millions that have been saved through the medium of appeals, we have reason to know that other millions have been saved because county and township officials, and State officers as well, have learned that it is futile to place in their budgets any questionable item and that it is foolish to try and put through a project at an estimated cost that will not bear the closest scrutiny.

In connection with taxation and other problems of local and State Government we hear a great deal about home rule. One group advocates a form of local self-government that would separate virtually all functions into one form or another of the old-fashioned town meeting. Another group is equally insistent that our greatest need is centralization because the ease of modern transportation has knit the peoples of every State into compact bodies. In Indiana we have tried to combine the principles enunciated by these widely separated divisions of public opinion, with the result that where budgets and taxes are concerned we have home rule, under State administration. We urge our citizens to take a greater interest in their own affairs, to the end that they may be familiar with every item of their local budgets and with the proposals for rates, fixing the taxes they must pay. We have, as I have pointed out, provided them with the facili-

ties for appeals to the State Board of Tax Commissioners in the event they feel aggrieved. There the State steps in, to conduct the hearings in the counties from which the appeals originate, making it easy for the petitioners to attend and present their evidence. The approval or disapproval of the State Board is final. The right to appeal is not predicated upon any given population or any particular total of taxable property. It is accorded to the poorest township as well as to the richest. The effect of the law is to give the people control over the expenditure of their own money, and this, in short, is our theory of home rule at its best.

Indiana has gone even further in an effort to reduce the tax burden than the taxing laws provide. During the Winter session of our General Assembly a law was enacted providing that for this year and next no budget can be prepared calling for greater expenditures in any classification than was contained in the 1930 budgets. Our laws permit us certain leeway in the event of emergencies caused by public calamities, but unless such unforeseen events occur the 1930 budgets must be maintained and the taxpayers know that they will not be called upon to bear any heavier burden than is imposed upon them now.

Now, there must be something to it if we can reduce our taxes 3 per cent while the Government says in other States in toto there is a 6 per cent increase.

Our greatest trouble was in getting this law before our people. There was much opposition to it, and the old cry of home rule was brought out; but if there was ever home rule permitted to the people in the units this law grants it to them. What chance do you have against an arbitrary set of County Commissioners who tell you, "We are going to float some bonds"? You know they float those bonds. Under our law they have not that right if ten people want to have a hearing. Our Tax Board can reduce the amount of bonds. They can approve it or deny it, but they cannot raise it. They cannot raise a proposed bond issue. This gives them a chance to be heard. That is all this law does.

When the local people have an idea they want to put this street down, or another, to the advantage of some particular interest, and they start in, they must go before the Tax Board. They come together in their locality in a courtroom, or wherever they may select for their meeting, and both sides generally appear by attorneys, learned men, who give both sides in a plain and understanding way. The Tax Board passes on it, and their decision is final. I am not speaking to you of the millions that they are afraid to take a chance at before the Board. I will give you an illustration:

In one of our cities they proposed to cement their city, the best city in the locality. I believe it was said the home people know more about conditions than any Tax Board appointed. I can't subscribe to that. We have experts. They are working day in and day out at it. They are versed in the law and have some idea of the necessities and know something about waste. They appear before them.

In this city where they were going to revolutionize their city they proposed a six-cent tax. They asked them: "What are you going to do with it?"

"We are going to build a street here and a street there. We are going to do a little beautification on the river bank, and we want a city hall."

They were the best people in that city, but ten of also the best people in that city petitioned the Tax Board for a hearing—I will take that back; they threatened to. They said, "We are going to petition." They didn't have to fight it, but they said, "What street are you going to improve? What part of the river bank are you going to improve; and where are you going to build a city hall?"

The Tax Board soon found (and it generally would have been available if it hadn't come to a hearing) that there was a building project in the main street. The business street was going to be moved over a little by placing the city hall over there and improving that street. They said, "If you are going to the Tax Board we will drop the whole thing."

There was nothing to have prevented that increase in tax. That was in Grant County, Indiana.

In Carroll County, Indiana, they were going to build a system of school buildings which were needed, and they were going to increase their tax and continue, but they were hoarding a lot of money. They were saving money. In other words, they were financing posterity. They went before the Board, and the Board let them build the schools they asked for in the way they asked to, but they said, "Pay with this money you are holding back. There is no use in your saving this money to finance posterity." They built those school buildings; not only that, but they eliminated the tax for the following year.

I shall give you another illustration that occurred in one of our counties. They were going to build a highway, and they were going to float \$575,000 worth of bonds. Ten people called it to the attention of the Tax Board, and they went down there in their county and listened to them. They said, "That is a fine improvement, and should be made. You are not beyond the bond indebtedness limit. That is all right. You can build this road, and it ought to be built, and you have good plans; but how about the \$575,000 worth of bonds? They are too much."

You know well enough when they float bonds they always spend the money some way or another. So they sent for engineers up there, and—not dotting their i's nor crossing their t's any differently than had been proposed by the local people—they built that highway and saved them \$201,000. They didn't know how much it was going to cost, and they just took a pot shot at it, and said, "It will take \$575,000," though it took \$201,000 less after experienced engineers took charge of it.

You people realize just as well as I do that if you have tax boards and utility boards and other important boards handling the affairs of state, you are making specialists out of them and are training

enemies for the future. The minute they are out they are hired by those who want them to tell them how they don't have to do what they told them they had to do when they were on the Board. So you can see when you are having people on your Board you must realize they are going to be seeking employment later, and you must compete with those whom you have left. It is rather an interesting cycle. I contend, in spite of all that, that you must train and keep a trained tax board or a utility commission, or whatever, to handle the State side of it.

After all, your commissions depend on the appointment of honest men, because it is rather hard to take just a man who receives his place through political preferment to go out and cope with those receiving enormous salaries to take the other side of it.

So our Tax Board is easy of organization and our entire plan is not difficult, if you should have a tax board appointed to supervise expenditures and really give them home rule. We don't interfere when nobody petitions. We don't enter into it; but if they feel it is too much money or unnecessary—in other words, not needed—then they have a chance to explain their side of it. It merely makes a hearing point.

Feature a real hearing meeting before a set of county commissioners who decide it is going to spend a few million dollars, and you will find out they will spend it. But everybody has a chance to be heard. They are not arbitrary. We are only asking the judgment of the local community, and I will tell you we had 134 appeals in one year, and 116 another year.

The greatest trouble in putting that before our people was that they said, "You are taking our business to the State and you are controlling it, which is all wrong." We are merely helping the taxpayer to have a hearing, and he is permitted to give his side of it to the commissioners, and they generally appear with attorneys.

Something was said about how we should turn things over to the different local units—I believe it was in one of the papers this morning, which I enjoyed very much—and your responsibility. The case I cited to you a while ago of 6 cents for improvements, I think, answers that from the Indiana standpoint that you may have them, but tell us what they are for. That is all we ask. We cannot increase the amount, but we can lower it or agree upon the amount as asked, or deny it, but we can't spend your money. All we can do is to give you an excellent opportunity to be heard and discuss it in the neighborhood where the expenditure is going to be made.

Since we have placed that law upon our books we have saved in actual dollars and cents more than \$88,000,000, and it has been on there less than twelve years. Is it worth while? (Applause.)

"INDIANA PLAN" DISCUSSED

GOVERNOR ERICKSON (Montana): You speak of these local boards. By whom are they appointed?

GOVERNOR LESLIE (Indiana): They are elected by the people, the County Commissioners, the City Council, the school system, the park system, or what not.

GOVERNOR ERICKSON: The Board of County Commissioners are pretty substantial. Why not be subjected to the Board of County Commissioners with the hearing your law provides, and then let the appeal be from the Board of County Commissioners to the State Tax Board?

GOVERNOR LESLIE: That is a step further around. We have County Commissioners in all States. We believe in getting all you can and canning all you get. At the same time, we feel we are giving them the same opportunity to pass on what they have decided. Of course, they are generally arbitrary, as you know. We get along with them fine. We ask them to listen to both sides.

GOVERNOR ERICKSON: It occurred to me whether the extra commission might not be dispensed with. We are getting to be governed by commissions, and I wondered if we couldn't dispense with that commission. Having this plan is new to me.

GOVERNOR LESLIE: We only have one commission in our State.

GOVERNOR ERICKSON: I thought you said local.

GOVERNOR LESLIE: No, sir; it is State, nonpolitical, appointed by the Governor. That is the one that supervised the 116 and 134 appeals in each year since I have been there. This one Tax Board has its office in the Statehouse.

GOVERNOR ERICKSON: Did you say they serve without pay?

GOVERNOR LESLIE: We pay them \$5,000 a year.

GOVERNOR ERICKSON: You virtually have two tax commissions?

GOVERNOR LESLIE: No.

GOVERNOR ERICKSON: What has been your experience? Of course, I can see where you have saved the local government from going into debt a great deal. Has it resulted in reducing the taxes of the ordinary administration of the county, aside from keeping the indebtedness down?

GOVERNOR LESLIE: I wouldn't know how to figure it as a reduction. I could speak on the prevention of pyramiding. That is what we aim to do, merely to have the people understand and agree that we need it. We don't go in it with the idea of that. It is really a court of hearing.

GOVERNOR ERICKSON: I understand that. Of course, the cry now is that taxes are too high; that property is being confiscated by taxes. Has that tended toward lowering local administration?

GOVERNOR LESLIE: Very much so. In our State we collect 29 cents and return all but 12 or 13 cents. The school tax and all goes back. Since 1919, when we started this over in our State, which is not a large State—about 3,225,000 people—we have by petition prevented the paying of interest on more than \$88,000,000. It is a big reduc-

tion. In the past two years, as I stated, States in general have increased 6 per cent; we have actually reduced ours 3 per cent.

GOVERNOR ERICKSON: You say they have supervision over the levies?

GOVERNOR LESLIE: We have that as long as we have the Tax Board and the State tax. We have a 7 per cent tax for schools. I shall give you a correct idea of the township where I live. We have a very fine trustee there—I mean an assessor—and each year he was forced to get placed on the ticket. He had in our entire township 40 people whom he considered the best 40 in the township. Then in his statement he would have farm machinery, household goods, \$45 a room for a house of seven rooms, so much, and he would assess everybody alike.

In the adjoining township there was one who was inclined to pay political debts and play favorites. I say our Tax Board ought to go into townships. They can go into a county and say, "You are low, compared with all others on livestock; you are low on household goods," or you are low on any item they may care to place, and then they put on an increase; but that hasn't been a pleasant business. We are not having to instruct our county assessors. That causes a great deal of resentment.

The one thing we stress and try to put over is the fact that if you are going to spend your money, let's get it easily. We don't have any argument.

GOVERNOR ERICKSON: I wanted to get light on this. You speak of the budget. Do you submit the budget to this commission?

GOVERNOR LESLIE: That budget is placed before them. All our State people come in before our budget committee. We have a budget committee that goes around to our institutions after election is over and inquiries about their new buildings and operations and get that information in detail. Then we are submitted a budget, and they go over that. Then the Legislature has it, and it is passed on for the handling of their needs for the next two years. We are blessed, or not blessed (laughter) with a Legislature only every other year. There are always the requirements of the State which must be put in the budget to carry them for another year, from the beginning of September to the following year, and all that is left over and isn't used reverts.

GOVERNOR ERICKSON: Thank you, very much, Governor.

CHAIRMAN CAULFIELD: Under the rule laid down this morning, the hour for public discussion has passed. The Governors, under that rule, will now go into executive session; so I shall request that all except the Governors leave the room.

The meeting adjourned at 4:15 p. m.

THIRD SESSION

The meeting convened at 10:30 a. m., June 2, 1931; Governor Wilson, of Vermont, presiding.

CHAIRMAN WILSON: The meeting will come to order. I think your Secretary has one or two communications to read to the meeting.

SECRETARY HARDEE: Telegram from the Governor of Arizona, addressed to the Chairman of the Governors' Conference: "Regret that pressure from problems of destruction, Arizona major industry, rapid increase in unemployment problem, rapid decrease in taxable assets, all resulting in lack of tariff on raw copper, make it impossible for me to attend the Conference. However, since the copper-mining industry is of great importance not only to Arizona but to a number of other States, and since it is only by cooperation that we may secure the tariff imperatively needed to protect this great American industry and American labor from the competition of opposed foreign labor, I suggest the consideration by the Conference of a resolution embodying in general the following points: 'Resolved, that we favor a compensatory tariff on raw copper and copper materials for the protection of the American copper-mining industry and American labor for the following reasons: Lack of proper tariff protection on raw copper and consequent shipping in of cheaply produced foreign copper has reduced the production of copper from American mines to less than half normal, and more mines are being closed down daily, threatening the very existence of the industry. Copper fabrication is still on same basis as other general business operating largely on massed supply, three-fourths of which was produced in Africa and Chile under conditions of virtual slavery from mines having larger reserves of richer ores, making possible production and delivery raw copper for half American cost. Closing down of American copper mines has resulted and is daily resulting in greater unemployment, loss of property and homes and business and tremendous depreciation in values. Copper-mining and allied industries and communities in Arizona bear half the State taxes, and destruction of copper industry will cripple or destroy schools, roads and many invaluable State institutions, because remainder of industries can not possibly assume and carry entire cost of State operation. The American copper industry was built up and nurtured under a tariff and we charge that the tariff was deliberately removed at behest of American internationalists who have taken capital amassed in America under protection and invested it in the production of raw copper in Africa and Chile under conditions abhorrent to American industry and American labor with the deliberate purpose of allowing the American copper-mining industry to languish and be replaced by foreign production at greater profit to themselves and with no regard to the interests of their own people. In Arizona alone copper camps have produced four billion dollars in new wealth in past twenty years and will repeat in next twenty under proper tariff protection of raw copper.' GEORGE W. P. HUNT, Governor of Arizona."

GOVERNOR BRUCKER (Michigan): I move it be referred to the Resolutions Committee.

CHAIRMAN WILSON: Moved that these resolutions be referred to the Resolutions Committee. Are you ready for the question?

All in favor of the motion say "Aye"; those opposed will say "No". It is carried.

GOVERNOR CAULFIELD (Missouri): I take it that means the Executive Committee.

SECRETARY HARDEE: I think it would be well to say Executive Committee.

GOVERNOR CAULFIELD: I suggest it be changed to read the Executive Committee. There is no Resolutions Committee.

GOVERNOR BRUCKER: A Resolutions Committee was appointed yesterday.

GOVERNOR CAULFIELD: It is against the rules to pass resolutions.

SECRETARY HARDEE: I shall state, Mr. Chairman, that the usual procedure in cases of this character is simply to receive, if they are addressed to the Conference from a Governor, and place it upon the minutes or publish it in the minutes, no action to be taken.

GOVERNOR BRUCKER (Michigan): I move as a substitute that the matter be spread on the minutes and no action taken on it.

CHAIRMAN WILSON: In the absence of objections, we so order. Is there objection? The Chair hears none.

Are there any other communications?

SECRETARY HARDEE: None.

CHAIRMAN WILSON: I anticipate that all of the freshmen Governors at least are enjoying this Conference not merely for the wonderful information which we are securing, but for the novelty of it. It certainly is a novelty for me to be here and to have the privilege of presiding over this meeting. I have presided over most every kind of a meeting from being moderator of one of our New England town meetings right through the list, but this I appreciate as a very high honor.

The members of this Conference who were Governors a year ago had the opportunity of being the guests of the great State of Utah, and to those who were in Salt Lake City a year ago I have every reason to believe it will be a special pleasure to have introduced to this Conference to speak today, on the subject "Executive Duties and Powers," Governor Dern of Utah. (Applause.)

ADDRESS BY GOVERNOR DERN

GOVERNOR DERN (Utah): Mr. Chairman: The Chairman has mentioned that the Governor's Conference was the guest of the State of Utah last year, and I assure you that it was a real privilege to us to entertain the Conference. They say a satisfied customer is the best advertisement, and I think we made some boosters for Utah.

I should like just to mention that we are having a great celebration out there this Summer called "Covered Wagon Days," which will

be held during the week of July 19 to 26, during which we expect to reenact many of the scenes incident to the winning of the West, as the title indicates, and I want to extend an invitation to everybody to come and see the very interesting program that will be portrayed during that week.

There is a considerable degree of misapprehension in the popular mind with respect to the proper functions of a Governor. I am tempted to add that there is also occasionally a considerable degree of misapprehension in the minds of some Governors with respect to their proper functions, but perhaps I had better let that pass. At any rate, there can be no place where it is more appropriate to discuss the general principles of a Governor's duties and responsibilities than at the Governor's Conference.

Without wasting time on nonessentials, I begin by diving head first into the vital question of where governmental responsibility is situated in the American system.

It will not surprise this audience to hear that State governments as well as the National Government are divided into three departments—Legislative, Executive and Judicial. As somebody said when he was introduced to a Mr. Smith, "Where have I heard that name before?"

The Judicial Department is usually an orderly, well-behaved group which knows its place and keeps in it. To be sure the National Legislative branch once in a while thinks the Supreme Court is poaching upon its private preserves, but as a general rule there is a satisfactory line of demarcation between the Judicial Department and the Legislative and Executive Departments, especially in the States.

This seems to leave the quarrel, if there be one, between the Legislative and the Executive Departments. Do these brethren always dwell together in harmony? Do legislators work overtime praising the executive for his fairness and scrupulous regard for the rights and powers of the coordinate branch? Does the executive lie awake nights thinking up new ways to tell the public that the legislative branch knows its place and stays in it? Oh, we get along with each other pretty well, and the little clashes help to make life interesting. Such clashes as we have are, of course, due to the cussedness of legislators who persist in playing politics, a vice which never even enters the purer mind of the executive.

Nevertheless, there are honest differences of opinion as to the distribution of authority between the Legislative and Executive Departments. The general public is prone to hold the Governor responsible for everything that happens during his term of office, including the acts of all elective and appointive officials, if not the actions of the Legislature itself. Popular opinion thinks of him as an officer of vast power and clothed with authority to tell everybody else what to do and what not to do. With such an impression abroad I say, "Come, let us reason together."

The Governor has two functions, executive and administrative. When a Governor goes into office he ought first to get it firmly fixed in his mind that there is a vast difference between these two functions. His executive functions are inherently his own, being vested in him by the Constitution. His administrative functions, on the other hand, are all delegated to him by the Legislature, for the Legislative branch is the source of all administrative authority. This distinction is of such fundamental importance that it is worthy of amplification.

A State constitution usually provides that "the Governor shall see that the laws are faithfully executed." That is his executive function, with which the Legislature has nothing to do. On its face it looks like a fine cloak of authority, but upon examination it is a flimsy garment, because the actual enforcement of the laws is in the hands of various State and local officials.

Although the Governor is denominated the chief executive, yet in most States he is only one of a group of constitutional executive State officers elected by the people, all independent of each other and, in their executive capacity, responsible only to the electorate, whilst in their administrative capacity they are responsible to the Legislature. The Constitution of my State, which is typical, provides that "the Executive Department shall consist of Governor, Secretary of State, State Auditor, State Treasurer, Attorney General and Superintendent of Public Instruction." In many States the number of elective officers is much larger. Oklahoma fills 14 State offices by popular election. Mississippi 13, and Arkansas, Louisiana, Michigan, Nebraska, New Mexico and North Dakota 10 each. On the other hand lucky Maine and New Jersey only elect one. The Governor, of course, has certain constitutional powers peculiar to his office. He is commander-in-chief of the militia; he may convene the Legislature in extra session; he may fill certain vacancies in State and district offices; and he has the appointive power. However, he has little authority or supervision over the elective officers of the Executive Department, each of whom has his own constitutional duties. Indeed, it might almost be said that we have six Governors instead of one.

Not only has he scant supervision over the other elective State officers in their executive capacity, but he is in substantially the same position with respect to them in their administrative capacity, and also with respect to the appointive State officials. These have their duties specifically prescribed by law, and it is their duty to obey the law, not to obey the Governor. At most the Governor, in his executive capacity, only has authority to see that they perform those duties faithfully.

Perhaps the Governor has come into office on a promise to enforce certain laws which are being flagrantly violated. When he gets on the job he finds that the enforcement of such laws is the duty of local officers over whom he has no control. If a complaint reaches him that the peace officers of some community are winking

at law violations, about all he can do is to call the complaint to the attention of the officers who are doing the winking.

Thus he becomes disillusioned about his great executive powers, and he finds that instead of having law enforcement in his hands he is little more than a figurehead in this respect. If he is a philosophical student of our form of government he will not find fault with this arrangement. So far as the general principle is concerned he will doubtless approve the good old theory that this is a government of laws, not of men, and that law enforcement should be kept close to the people.

So much for the Governor's executive function, which, as I have attempted to show, consists of a general supervision over the law-enforcing agencies of the State government. We come now to the administrative function, which consists of actually administering the laws as enacted by the Legislature and interpreted by the Judiciary. In this field the Governor has a much wider influence. Although it is still the duty of the administrative officers to perform the duties laid upon them by the Legislature, and although the Governor is not in a position to exercise his own judgment and discretion in enforcing the laws, yet he will find that through his power of appointment he has a very substantial, though intangible, influence upon the manner in which many laws are enforced. In this field of administrative functions, if we except his influence upon legislation, he will find most of his own activities and most of his opportunities for useful service, provided the laws of his State invest him with the authority which he needs in order to render the services. All his administrative powers must be delegated to him by the Legislature.

Let us examine his legal powers in this field a little more closely. The National Government is the same as the State governments in that all administrative authority is derived from Congress. Because the President is the only executive officer, and since the members of his cabinet are appointed by him, there is a common belief that he is legally responsible for all their acts. That this view is erroneous was clearly explained in a Senate report during the 46th Congress, which, after enumerating the President's constitutional executive powers, used this language:

"The departments and their principal officers are in no sense sharers of this power. They are the creatures of the laws of Congress exercising only such powers and performing only such duties as those laws prescribe. . . . The Secretaries were made heads of departments; they were charged by law with certain duties, and invested by law with certain powers to be used by them in the administration confided to them by the laws. They were in no sense ministers of the President, his hand, his arm, his irresponsible agent, in the execution of his will. There was no relation analogous to that of master and servant, or principal and agent. The President cannot give them dispensation in the performance of duty or relieve them of the penalty of nonperformance. He can-

not be impeached for their delinquency; he cannot be made to answer before any tribunal for their inefficiency or malversation in office; public opinion does not hold him to stricter responsibility for their official conduct than that of any officer. They are the creatures of law and bound to do the bidding of the law."

The foregoing doctrine has been sustained by the Supreme Court, as witness the following extract from one of its decisions:

"The executive power is vested in a President, and as far as his powers are derived from the Constitution, he is beyond the reach of any other department, except in the mode prescribed by the Constitution through the impeaching power. But it by no means follows that every officer in every branch of that department is under the exclusive direction of the President. Such a principle, we apprehend, is not, certainly cannot, be claimed by the President. There are certain political duties imposed upon many officers in the executive departments, the discharge of which is under the direction of the President. But it would be an alarming doctrine that Congress cannot impose upon any executive officer any duty they may deem proper, which is not repugnant to any rights secured and protected by the Constitution, and in such cases, the duty and responsibility grow out of and are subject to the control of the law and not to the direction of the President. And this is emphatically the case where the duty enjoined is of a mere ministerial character."

The same rule, of course, applies to State governments, and hence the plan of centralized administrative control does not mean at all that the Governor will become an autocrat who will try to run every State office and activity. Personally, I have no use for dictators, whether they be of the Mussolini or of the Lenin type. They all look alike to me, and I should be the last to advocate a scheme that would defeat or impair our representative form of government. But I do think that, in the interest of the taxpayer, our State governments should be organized in such a fashion that they may be able to approach private enterprise in efficiency.

To illustrate the statement that the legislative branch is the source of all administrative authority I need only cite one or two concrete illustrations.

Whether or not the State shall have a system of State highways is for the Legislature to decide. Which road shall be State highway is also for the Legislature to decide. Who shall construct the highways and how much money shall be expended are likewise questions for the Legislature to decide. If the Legislature prescribes a highway program, and creates a highway commission to be appointed by the Governor to carry out the program, it is the commission's duty to build the highways, not the Governor's. The Governor has nothing to do with how, when and where the roads shall be built. His duty is to appoint the commissioners, and see that they carry out the program prescribed by the Legislature. He should, however, have administrative power to see that the commis-

sion sets up an efficient organization and does not waste the State's money. He should therefore have the power of removal as well as power of appointment.

The regulation of rates charged by public utilities is a proper function of the Legislature, but it is not feasible for the Legislature itself to perform that function in a satisfactory manner. It therefore creates a Public Utilities Commission, and authorizes the Governor to appoint its members. The Public Utilities Commission is an arm of the Legislature, not an arm of the Governor, and it would be usurpation on his part to attempt to dictate to the commission with respect to its duties. Nevertheless, even with a punctilious respect for the official powers and duties of the commission, it is entirely appropriate for him to scrutinize the organization and operations of the commission from a business or financial standpoint, with a view toward preventing waste or extravagance.

I need not multiply examples to prove that the legislative branch has the function of deciding what activities the State shall undertake; how and by whom the activity shall be carried on; give the necessary directions and prescribe rules of procedure; furnish the money to carry on the activity; and exercise control, by means of adequate accounting, audits, reports and other devices, over the persons to whom the work is entrusted. These are all administrative functions, and constitute the means by which the Legislature confers administrative authority upon its agents.

Notwithstanding the fact that the Legislature is the source of all administrative authority, there is no reason why the Governor should not be the most important administrative officer, especially in matters of finance. On the contrary, there is every reason why he should be. For the past 20 years or so the cry has been for greater efficiency and economy in government, both National and State. We are told that Government should adopt the methods of private enterprise where efficiency and economy have been most highly developed. The advice is good, and we ought to study the organization of private business and pattern after its good features. How does a successful corporation function?

In the first place, it has a body of stockholders, who own the business, and who are in it to make money. They elect a board of directors to run the business for them, giving it broad powers as to policies and methods. Once a year the directors report back to the stockholders. If their stewardship is approved they are usually reelected. If not, they are superseded by another board.

The directors, however, do not pretend to manage the business. They only determine policies and authorize projects, and they elect a general manager to carry out those policies and projects. Within the limitations imposed by the directors he has authority to conduct the business of the corporation, and he is held responsible for the results. If the Board elects other officers, such as a treasurer and a secretary, their duties are of a subordinate character, and they have no voice in the general management of

the business. They have nothing to do with making profits except in so far as they are of assistance to the general manager.

How nearly analogous is the organization of most State governments to this approved type of business organization? If we consider the State as a corporation, the people are the stockholders. They own the business, but they are not in it to make money. They are in it to get certain services as cheaply as possible. They elect a board of directors, known as a Legislature, to run the business for them, giving it broad powers as to policies, direction, supervision and control. Obviously the Legislature, consisting of a large number of members, and only meeting every two years, cannot pretend to manage the business directly, hence it must delegate its authority to others. It therefore farms out its authority to sundry officers, boards and commissions. These should all be under the supervision of a general manager who would be responsible to the Legislature. The Legislature, however, does not elect a general manager to act as its agent. The general manager, in the few States which have one, is elected by the people and he is called the Governor. If the Governor were given full authority to supervise the financial administration of the policies and projects of the Legislature, and if he were held responsible for the results, the cases would be nearly parallel, for the mere circumstances that the Governor is elected by the stockholders instead of by the directors does not necessarily militate against successful operation of the proposed set-up. However, there are only a few States where the analogy is approximately complete. In my State, as I have said, we have six managers, all elected by and responsible to the people, and all independent of each other. Many States have a longer list of constitutional elective officers. Although the Governor is nominally the Chief Executive, the other officers are not subordinate to him, and if they do not like his orders they can tell him where to go. Each of these officers usually has important administrative functions added to his constitutional functions, but they are not coordinated under one head. They may antagonize each other and all pull in different directions. How long could a private business enterprise survive with that sort of internal discord? How long would such foolishness be tolerated by the stockholders?

It seems anomalous that in our National Constitution we should be willing to say that "the executive power shall be vested in a President of the United States of America," whilst in most of our State Governments the executive power is spread out wide and thin, and the Governor is the Chief Executive in name only. But it is far worse to spread the administrative authority all over the lot, with no centralized control over the spending of the taxpayers' money.

The Secretary of State of the United States, to whom we entrust international affairs of tremendous import, is appointed by the

President, but the Secretary of State of most of the States of the Union must be elected by popular vote.

The Attorney General of the United States, who is the lawyer for the National Government, is appointed by the President, and is therefore in harmonious relationship with the Chief Executive, but in most of the States the Attorney General is elected by the people, so that he is not only independent of the Chief Executive, but may actually be hostile to him. Why should not the Governor select his own legal adviser, so as to be sure of having a lieutenant of whose ability he is satisfied and upon whose cooperation and loyalty he can depend?

Why should we tolerate a system under which the Governor may be pulling in one direction whilst his fellow officers are pulling in the opposite direction and frustrating his efforts? How can we enforce efficiency under such a system?

This is not a case where "Out of the fullness of the heart the mouth speaketh," for I do not speak out of any personal grievance. It happens that I am receiving cordial cooperation from my fellow officers of the Executive Department, although most of them do not belong to my political party. They are my personal friends, and I am not impugning their methods nor trying to pry them out of their jobs. In fact we work together so harmoniously that I have more or less respect for Pope's famous couplet:

"For forms of government let fools contest,
Whate'er is best administered is best."

I realize, however, that this happy condition does not always exist, and that sometimes there are pinheaded politicians in office who are always looking for a chance to knife the Governor, regardless of the public welfare. Moreover, the form of organization actually is important, Alexander Pope to the contrary notwithstanding. If these State officers, instead of being elected by popular vote, were appointed by the Governor they would actually be his trusted advisers and the State would reap the advantages of the cabinet form of government.

I suppose Utah is not the only State that has worked out a fairly satisfactory form of centralized financial administration despite a multiplicity of elective State officers. The State has a budget system and the formulation of the budget is the duty of the Governor, as it should be. The Governor, the Secretary of State and the Attorney General constitute the State Board of Examiners, who must approve all claims before payment, thereby exercising financial control. These officers also comprise the State Board of Supplies and Purchase which supervises the purchasing department and performs some of the functions of a department of finance. This triumvirate therefore exercises broad administrative powers, and we virtually have a commission form of government, instead of the Governor being the real administrative head of the State Government. Perhaps there is something to be said for a multiplicity of counsel. It is obvious, however, that the

same system could be used with appointive officers, and also have the other advantages of the cabinet system.

I cannot refrain from interpolating that it is hard for me to conceive of a more despicable character than a Lieutenant Governor who, while temporarily acting as Governor during the Governor's enforced absence from the State, would stoop so low as to perform acts that would embarrass the Governor's Administration. No man with the instinct of a gentleman could even contemplate such a course, even in the ruthless game of politics. And yet I have known several instances of Governors who were afraid to leave their States to attend the Governor's Conference because they did not dare to trust the Lieutenant Governor. (Laughter.)

Having got that out of my system I return to my subject.

There is nothing novel in this suggestion that the States should take a leaf out of the Federal Government's book, and centralize administrative authority in the Governor, because several States have already done so.

There is nothing undemocratic about it. Why should it be considered more democratic to vote for half a dozen candidates, five of whom the average voter does not know, than to vote for one whom the voter does know? For there is no conceit in the plain statement that in a State election the candidates for Governor are the ones who arouse public interest and around whom the campaign centers, whilst the rest of the candidates are usually just so may more party nominees. Democracy means that every voter uses his individual judgment and makes his own choice of candidates. In a State election not more than one voter in a thousand even knows the names of the candidates for, say, State Treasurer, and so instead of making a choice he merely registers his political party affiliation. What is there so democratic about that? What does the voter gain by it?

As Governor Alexander said at the 1915 Governors' Conference:

"A modern business institution is a true democracy, controlled and conducted by those who own its stock yet who know little about the details of the business they conduct. The American people are said to elevate the dollar above all else, including even their patriotism, yet they are content not to meddle in the details of the business in which their dollars are invested and which returns them other dollars. They never suspect that in selecting a competent manager to conduct their business they are waiving any of their rights."

This is a good place to put more business into government. Certainly one officer can be held accountable much better than can six who may all pass the buck to each other. The system of checks and balances is wholesome as between the three departments, but to let one executive officer check another leads to confusion and inefficiency.

The practice of curtailing the powers of the Governor is a relic of colonial times, when the Governor was appointed by the British Crown. The colonists had no voice in his selection and he was seldom chosen

from their number. He was regarded as an outsider over whom they had no control, and who administered affairs not for the best interests of the Colonies but as the agent of the mother country. There were frequent conflicts between the Governor and the Legislature, and the people invariably sided with the Legislature, especially when the arbitrary will of the Governor prevailed. The result was that the people became embittered and prejudiced against executive and one-man power.

This prejudice remained after the Revolution, and it was deemed necessary to do away with executive tyranny. The Governor was therefore generally elected by the Legislature, and shorn of all but a semblance of power, whilst the Legislature became supreme.

Gradually, however, the practice grew up of electing the Governor by popular vote. The people learned that when he, no less than the Legislature, was elected by and responsible to them the fear of tyranny was groundless. Furthermore their implicit confidence in the Legislature was shaken by specific cases of legislative corruption and extravagance, and it became evident that the great powers of the Legislature should be curtailed and that some of them should be transferred to another body. During the first half of the nineteenth century there came a wave of extreme democracy, which resulted in frequent elections of almost all public officials, from dog catcher to Governor and Supreme Court judges. While the Governor became independent of the Legislature his power for several decades was not appreciably increased. In fact, in some of the States his duties were so slight that it was not even deemed necessary for him to live at the seat of government.

Since the Civil War there has been a decline in public confidence in the efficacy of popular elections, and simultaneously there has been a great increase in the number of the functions undertaken by the States, which has resulted in the creation of very many new offices. When it became almost physically impossible to place on the ballot the names of all the officers to be chosen many of them were made appointive by the Governor. There has come about a gradual increase in the power, prestige and influence of the Governor until to-day there is probably more distrust of Legislatures than of Governors. Nevertheless the decentralized type of administration in the American States is still the rule rather than the exception. The object of the framers of the American Constitution was to prevent the Government from becoming so strong as to jeopardize the rights and liberties of the individual citizen, and our State constitutions are still cluttered with efforts in that direction. The inertia of governmental organization is hard to overcome.

There can be no doubt that if we want our State governments to approach the efficiency of private business we need a more unified, concentrated and efficient type of administrative organization. All competent students of the subject are agreed on this point, and also in the conviction that it can be achieved without any sacrifice of individual liberties.

How can it interfere with individual liberties when all we are talking about is financial administration? The powers of the Legislature will not be affected at all, and the only object is to save money for the taxpayers.

It is not proposed to infringe upon the responsibility of the Legislature in determining what the State shall do and in what activities it shall engage. This does not necessarily mean that the Legislature should specify every detail. In my State, for example, the Legislature designates certain State roads, and makes certain funds available for their construction and maintenance. It is left to the State Road Commission to determine the precise location of each road, the type of construction, and the order in which the several projects shall be built. The system works admirably, and I have recommended a similar arrangement for State buildings. The Legislature, during its brief session, is poorly equipped to make adequate study of the building needs of the State institutions. I think it would be advantageous to have a State building commission make a thorough survey of the State's building needs, and report its recommendations through the Governor to the Legislature. The Legislature might well use these recommendations to aid it in authorizing a building program to meet the State's estimated needs for a period of years, and determine how much money should be spent from time to time. The building commission could then determine the order in which the buildings should be erected and the type of construction, and proceed to carry out the program. Legislative logrolling would be eliminated, and a higher type of construction could be had at a minimum cost.

The centralized administration herein suggested does not contemplate taking away from the Legislature the function of prescribing the agencies and organizations which shall carry on the activities which it has created. Here again efficiency might be promoted if the Legislature did not attempt to be too specific in the details of internal organization of an activity. Decisions in this field made in advance of actual experience are likely to be productive of harm.

The Legislature should also be left with authority to determine the personnel of the agencies which it creates, particularly the officers who are to be responsible for the direction of the activities. That is, it should determine their number, character, compensation, powers and duties. How far it should go in specifying the subordinate personnel is doubtful, but it can impose a limit by the size of the appropriation. It is easy for the Legislature to say that the Industrial Commission shall consist of three members, but it is difficult for it wisely to prescribe the number of inspectors, statisticians, reporters and other necessary employees. Centralized administrative control, however, contemplates that the Chief Executive shall prepare a budget of the financial needs of the service and submit it to the Legislature. In the formulation of this budget a careful study of the subordinate personnel would be made for the information and guidance of the Legislature in making appropriations. A businesslike control of expenditures by the Chief

Executive is another administrative function that the Chief Executive could perform for the Legislature.

The Legislature, as the source of all administrative authority, must obviously have power to determine means for legislative supervision and control, and it should exercise that right. It can do so by requiring proper records, regular reports, accurate accounts, periodical audits, and such other means as it may deem proper.

With all these safeguards and reservations of power in the Legislature there can be no reason why the Chief Executive should not be invested with the duties and powers of a general manager, and made the real business head of the administration, whom the Legislature will hold responsible for carrying out its declared policies in an efficient manner. The line of administrative authority should run through the Governor to the Legislature, which means that the purely administrative officers should be the subordinates of, and subject to, the superior authority of the Governor. In his administrative capacity, as distinguished from his executive capacity, the Governor will therefore be the subordinate of the Legislature, and will be acting as the agent of the Legislature in controlling financial affairs.

I have tried to convey the idea, and I now repeat it, that there is a fundamental distinction between the responsibility of the Governor in respect to the organization and management of the government and his responsibility in respect to the technical work done by the operating units. What I mean by that is that the Governor should be held responsible for the government being well organized and well run from the business standpoint, but that he should not meddle with the technical work that has been delegated to the operating units by the Legislature. The general manager of an industrial plant does not tell the chemist how to make his analyses, but he does regulate the wages and hours of assistants, and he sees that supplies are economically purchased. If the Governor finds that the operating units are not functioning efficiently from the business standpoint he should have power to interfere, but his responsibility should be restricted to the appointment and dismissal of officers.

I summarize by quoting from an excellent bulletin issued by the Chamber of Commerce of the United States entitled "The Financial Administration of Government." This bulletin states that a proper system of financial administration should be based on certain fundamental principles. The first of these is "The definite recognition of the Chief Executive as the responsible head of the administration, and as such having general responsibility for directing, supervising and controlling the conduct of administrative affairs and particularly those having to do with finance." The second is "The provision of adequate means through which the Chief Executive may, in fact as well as in name, meet and discharge these responsibilities."

If we accept the principle that the Governor shall be the general manager we must also adopt the rule which is inviolable in private business that he should have the right to hire and fire. A general manager who cannot select his own subordinates is a joke in the busi-

ness world. Of course, this only refers to the responsible heads of departments, and would not interfere with civil service.

To give the Governor this power will generally require several important changes in constitutional as well as statutory provisions. In the first place in most of the States the chief administrative officers, as I have pointed out, are elected by the people. In the second place, the Governor can only make appointments with the advice and consent of the Senate, and in some States he can only remove them with the concurrence of the Senate. The approval and consent of the Senate may be salutary in connection with the appointment of judges, but when it comes to the appointment of administrative officers who shall be the subordinates of the Governor it is out of place. It is absurd to hold the Governor responsible and then tie his hands.

If I were a new Governor I should probably hesitate to express these views which amount to asking for more power for the Governor, but since I am in the second half of my second term I hope I shall not be suspected of any overweening ambition. Our purpose here is not to seek more power but to make ourselves more useful to our States. As a matter of fact, I have not suggested anything that is not already in successful operation in several States, and is advocated by the most competent authorities on State government.

I trust that it is superfluous for me to explain that I have not tried to cover the whole field of the Chief Executive's functions. For example, we will all agree that the most conspicuous service rendered by the Governor is often in connection with his influence upon legislation. Through his powers of recommendation and veto he has both a positive and a negative influence upon the enactment of new laws. Moreover, if he assumes the position of leadership which his people expect of him he can make himself a strong force in behalf of new policies which he considers wise and salutary. While I recognize this function as among his chief powers, duties and responsibilities, yet it is not a part of my theme today. I have intentionally limited myself to the administrative side of his office, where his usefulness apparently can be increased.

I make my grateful acknowledgements to Dr. W. F. Willoughby of the Institute for Government Research for the aid I have received from his "Principles of Public Administration," which should be in every Governor's office. I have also borrowed freely from Dr. J. M. Mathews' "Principles of American State Administration." (Applause.)

CHAIRMAN WILSON: It is a long jump from Utah to Maine, but the problems of government which we as Governors are interested in are practically the same in Maine as they are in Utah.

The question of "Administrative Reorganization" which is to be discussed by the next speaker, could hardly be handled by one who has had better success in practicing what no doubt he will preach, Governor Gardiner, my friend from Maine. (Applause.)

ADDRESS BY GOVERNOR GARDINER

GOVERNOR GARDINER (Maine): It is with some hesitancy that I presume to address this Convention of Governors on the subject of

Administrative Reorganization for some of those present have been instrumental in accomplishing notable achievements in this field. But the matter is of such importance that it well merits a place on the program and those Governors who have experienced the benefits of such changes can furnish practical assistance to others.

The word "reorganization" has a painful sound, but we are speaking of changes not for the sake of changes nor for the sake of experiment, but for the sake of improvement. Government is concerned a little with the dead, a good deal with the yet unborn, and tremendously with the living. The science of government should be about the most alive thing that men can place in captivity. Government affects all of us more vitally than we are willing to admit. Any association of individuals, whether a sewing circle or a State, develops forms and traditions; a public association must ensure its stability by restraints that necessarily are somewhat cumbersome.

The increase in the last decade of the functions of State Government is appalling. In almost every State the situation has been, or is being, presented where but two courses are open to the people composing the government. They may contemplate the increase in activities and budgets with dismay on tax day and pride the rest of the time and wonder how they can still swing the conduct of affairs under their old administrative machinery. Or, they can meet the problem in the spirit of the age and logically redesign that machinery so that it is apt to their needs, readily responsive to their will, so that their government is within their control and they are not enmeshed in the relentless wheels of mechanism of which the chief characteristic is gathering momentum.

I speak of the people of a State. Where does a Governor come in among so many? He has the courtesy title of first place and he should take it. He is usually vested, either in fact or by the words of the Constitution he has sworn to uphold, with supreme executive power. Let him take that power as a trust given to him by his fellow citizens that he may utilize it for their benefit. His is the duty to see that government is well executed. He is in a unique position to study the possibilities of administration. If the State Government needs better disposition of the units of administration, if changes in the laws or constitution are required, the Governor must go get them—not for himself, not even for his successor, but for the beneficiaries of the trust he has assumed, for the people whom he serves.

Unfortunately, legislators rarely carry on with sufficient continuity of service, sessions are short and crowded, affording scant opportunity for careful accumulation of information covering wide fields of activity, and the study or suggestion of any changes in political matters is not always popular with all office-seekers or office-holders.

The collection of information as to governmental activities with a view to planning improvements necessarily involves the baring

of conditions that have not been perfect. Sometimes those connected with administration of the present or past accept this with a feeling of personal resentment and may even oppose the undertaking. It seems to me that the composure of Hamlet may properly be cited to such statesmen—"Let the galled jade wince, our withers are unwrung."

I believe it would take a supergovernor to collect the information and perfect the plans for any comprehensive State reorganization single-handed. Even if he had the time and ability to start the task it is unlikely that his constituents would have sufficient confidence in a one-man proposition to see it through. It seems a more likely procedure to follow to entrust some of the work to an impartial and well-equipped group of experts and to enlist the help of citizens who can give deliberate consideration to public matters without personal or political bias. This method was pursued with success in Virginia and has recently been followed in Maine. In both instances the preliminary study was excellently performed by the National Institute of Public Administration.

The Maine Legislature of 1931 passed by a vote in the House of 116 to 24 and in the Senate by a vote of 24 to 3 an Act Relating to the Administration of the State. Up to the present, Maine has made little progress in integrating the work of forty odd administrative units—the government has grown without any particular plan. Reform has been urged in the platforms of both parties: the Democrats emphasizing the advantages of general consolidation and the Republicans stressing the need of a closer coordination of health, welfare and institutional work.

In brief this Maine Act of 1931 provides for a modern up-to-date financial system, with facilities for better budgeting, auditing, central purchasing, and fiscal control; the harmonizing of health, welfare and institutional work and some consolidation of related agencies. It was very generally sponsored by citizens who had taken pains to study the matter from the point of view of efficient and economical government. It was opposed somewhat openly by certain office-holders, principally trustees of institutions, but of 182 legislators, only 27 were impressed by their objections. A few persons have recently associated themselves together to attempt to secure a referendum on the Act. With one exception, none of these persons raised any objection at any of the six public meetings held to discuss the whole question before the Legislature convened, or at the four public legislative hearings. That is, out of ten chances to save the Legislature from making what seemed to them to be a mistake they let the whole ten go by, and now seek to upset the legislative action. The matter has presented an interesting study in government and now presents one in political psychology. It is my most sincere hope that the legislative action may stand, that Maine may join those progressive States which have provided themselves with modern equipment to meet modern problems.

It would be unnecessarily trite to recount the changes that have come in this century in the methods of organization and administration in business affairs. In any State Government the work of all the subdivisions may have kept up to the times fairly well. The highway builder, the health worker or the bank examiner may, on his own initiative, conduct his particular activities with efficiency and economy, but the taxpayer is entitled to a real guarantee of this. State Government should be more than a mere aggregation of independent activities. If we should be on the alert to improve the work of each department, by the same token we should be more alert to improve the whole structure of government, to eliminate waste, duplication and lost motion.

Government is not an end in itself, it is merely an aid to human life. Fifty years or five years may bring a need for a rearrangement of the structure of a rapidly growing State Government. A public servant who only stands and waits may fill an office but he will never fulfill his trust. The trust of a Governor is to administer affairs in such a manner that more of his people shall be fitted physically, morally, intellectually and economically to take their rightful parts as citizens of our beloved Union of States. (Applause.)

CHAIRMAN WILSON: Probably no subject which we have thrown at us as Governors causes more disagreeable feeling to somebody or other than this question of extradition. Sometimes a veto may cause trouble, but ordinarily it isn't so troublesome.

I am sure we shall all be very glad to hear these subjects of "Veto and Extradition" discussed by the Governor from North Dakota, Governor Shafer. (Applause.)

ADDRESS BY GOVERNOR SHAFER

GOVERNOR SHAFER (North Dakota): Mr. Chairman, Fellow Governors, Ladies and Gentlemen: I feel that the Executive Committee paid me an unusual compliment in inviting me to speak on two unrelated subjects in the same speech. I feel, however, that that invitation is more of a compliment to what the Committee regarded as my good nature than my qualifications to deal with either of them adequately.

To be confronted, however, with two unrelated subjects and responsibilities is not an unusual situation for a Governor to meet, as you all know. These two subject, "Veto and Extradition," are powers and duties that may confront a Governor not only on a single day but sometimes within a single hour, and challenge his capacity for intelligent executive responsibility.

I regard both of these powers, that of the veto and that of extradition, as among the principal powers and duties that are vested by the Constitution in the Governors of our States.

May I speak, first, of the veto power? That, in my judgment, is the most important single power and responsibility that is vested in an executive. The power to nullify a legislative act, to defeat a

legislative measure, render null a legislative action, certainly involves not only great power but great governmental responsibility. The free and liberal exercise of that authority may well bring to a Governor a good deal of public notice within and without his State, sometimes a public notice that is favorable and sometimes unfavorable.

The history of the development of the executive veto power in this country is a very interesting one indeed, and follows very closely the consistent and interesting growth of the Governor's office in public confidence. As Governor Dern remarked very aptly in his splendid address on "Executive Duties and Powers," in the early history of our country the measure of public confidence in Governors was small indeed as compared with the present measure of public confidence in executives, and therefore the authority to exercise the veto power was limited indeed.

This source of the veto authority, as we know it now, is English history, and we inherited it as we did a good many of our important principles of government in our country from the mother country.

It was transplanted to some of the Colonies prior to the Revolutionary War. The so-called charter Colonies did not authorize the executive or the Governor to veto legislative measures. The proprietary Colonies did, at least they had a qualified veto power, and royal Colonies, however, had the absolute veto power vested in the royal governor. Not only did the veto power exist in the royal governor but the assent of the royal governor as well as of the Crown was necessary to make a legislative measure a law.

Probably as a result of the unhappy experience which the people had with the royal governors, the people in forming the first State governments during the Revolutionary period and before the formation of the Constitution were very careful indeed in the matter of vesting in Governors the authority to veto legislation. Prior to the formation of the Constitution of the United States only three of the original thirteen States vested in the Governor the veto power. One of them, South Carolina, repealed it after only two years of existence of that power.

Massachusetts was the first State to vest in the Governor the veto power as we know it today. I think to Massachusetts we must accord the honor of being the pioneer State for having inaugurated the particular principle of executive veto that is now generally known throughout our country.

At about the same time that Massachusetts inaugurated the veto principle in the executive authority, New York did also, but New York's principle of veto was founded upon a different principle. New York did not vest in the Governor originally the power of veto, but vested the power of veto in what is known as a Council of Revision, consisting of the Governor, the Chancellor and the Judges of the Supreme Court.

Later on, in 1818, when the great State of Illinois formulated her first Constitution, the same principle of veto was adopted there as New York had adopted. That is, the veto power being vested not

in the Governor exclusively but in a Council of Revision, consisting there of the Governor and the Judges of the Supreme Court. Illinois used that form of veto through the means or medium of the Council of Revision until she changed her Constitution in 1848 after some thirty years of experience with that form of legislative check.

The State of Vermont also used that system for a while, but after a while it was amended. It was some seventy-five years before all of the original thirteen States gave up their distrust of the executives and took the chance of vesting in Governors the power to nullify legislative action. Indeed some of the original States did not do so until after the Civil War. The situation, however, was somewhat different with the States that became States by virtue of admission to the Union rather than those which were the mere charter members of our original Republic. Practically all of the new States, following the example of the Constitution of the United States, which had adopted a veto power in the President, virtually all of them accepted the executive veto as we now have it with but few changes.

Now then, as a result of that gradual evolution, this gradual rise of public confidence in the office of Governor, the executive veto now exists in every State of the Union except the great State of North Carolina. For some reason I am not able to account for, and I was going to ask Governor Gardner—if he came—for the purpose of satisfying my curiosity and enlarging on my knowledge of American history, I was going to find out what was the historical reason, if there be one, why the good people of North Carolina have in all these years not determined to vest that important power and executive responsibility in the Governor, but the fact of the matter is that North Carolina stands alone as the only State that does not entrust its Governor with some measure of veto authority over legislative acts.

Now then, there is a great variety, there is a great diversity of constitutional law dealing with the manner in which the executive veto may be exercised as regards the time, during the legislative session, the Governor must act and return the measures that are submitted to him for his approval; as regards the time after the adjournment of the session within which time he must act; and also as regards the majority required in the legislative assembly to override the veto and put the measure into law notwithstanding the executive disapproval.

It would not be worth while, I think, for me to discuss this diversity of law because there is so much diversity, nor to discuss the evolution and history of the change in those extensions and limitations in power. I just want to observe that in the great majority of the States the authority in the Legislature to override the veto is one that requires a two-thirds majority of the Legislature. A few of the States only require a majority of the Legislature and some of them only require a three-fifths majority, but probably 75 per cent of the States require a two-thirds majority of the members elected in order to give the Legislature the authority to validate a measure notwithstanding specific executive disapproval. Most of the States

only permit the Governor a very few days, an average of five, running from a minimum of three up to a maximum of ten, I believe, during the legislative session within which to exercise his prerogative of a veto.

The same may be said with regard to the period of time within which the Governor must act after the close of the Legislature. Some States, as for instance the State of Minnesota, I believe, only allow the Governor three days in which to exercise that important responsibility in dealing with a great mass of legislation. Other States, such as the great State of New York, allow more liberal time, thirty days, I believe, and that gives the Governor a larger measure of time and a better opportunity to determine whether he wishes to exercise the executive veto responsibility or not.

There are a number of States, I think it is 23, that have what is commonly known as the pocket veto; that is, the same sort of veto that the President may avail himself of under the Constitution of the United States. That is, you know, the veto that results not from the affirmative act of the Governor in filing objections to a measure following a closing of the session of the Legislature, but merely an automatic veto that follows from his failure to act either way on a given measure after the adjournment of the Legislature.

The Constitutions of some 23 States, I think it is, 21 or 23, have been so construed by the courts that the pocket veto results from that situation. We have a very interesting question of whether the veto power is necessary or whether it is in force that has arisen in the State of Minnesota and is now pending in the courts. Because it is pending in the courts I am not going to volunteer any gratuitous opinion on the merits of that question that has arisen, but it is a very interesting one from the standpoint of the State Government because it arises upon the question as to whether Governor's approval is required or whether Governor's disapproval can defeat a legislative measure designed to redistrict a State under the Congressional Reapportionment Act. In that State the Legislature passed a measure undertaking to redistrict the State and the Governor exercised what he deemed was his authority to veto that measure and he did file his objections to that measure. Now then, there are those who claim that because of the language of the Constitution of the United States which purports to vest in the Legislatures the authority to create legislative districts that an action of the Legislature creating or purporting to create legislative districts does not require executive approval in order to become a law. So that very interesting question is now pending before the courts of Minnesota and I take it that it will probably find its way into the Supreme Court of the United States and we shall have an opportunity to have that question discussed and determined by the highest judicial authority in the land.

We come now to a few observations on a recent development of the veto power in this country. So far we have been concerned just with the general subject. That is, the power of the Governor to veto as applied to separate items in appropriation bills. Some 36

States have recently vested in the Governor the power to select individual items from budget bills or general appropriation bills containing many items and to veto those particular items without vetoing the entire measure, so that such a constitutional provision exists in the Constitution of the State of North Dakota and in the Constitutions of some 36 States. Twelve States do not have that specific or special veto authority.

The question has become a very important and a very concrete one as to just what measure of veto control should be vested in the Governor as respects appropriations that are grouped together in numerous items. It has seemed to me from a very brief and hasty study of the subject that the State of Massachusetts and the State of California have developed and evolved a very ideal form of veto both from the standpoint of Governor and from the standpoint of public welfare.

In the State of Massachusetts, as I understand, their system of executive veto as applied to appropriations is that the budget is prepared either by or under the direction of the Governor, is submitted to the Legislature, the Legislature has the authority to strike out or reduce or to add to any item in that budget. After the Legislature has passed the budget, then the Governor may veto any one item in the budget or he may reduce any item that has been increased by the Legislature to a figure below that adopted by the Legislature.

The State of California has the same system, and a few instances have occurred where the Governor has felt called upon to exercise that reducing veto authority very liberally and has reduced the appropriation budget many millions of dollars in previous years.

In some States, only a few, however, notably Pennsylvania, the authority to reduce items in an appropriation budget or bill was sustained by the courts some years ago under the general veto power. Many Governors have undertaken to inaugurate that principle, but most of the Governors of our States have not been supported by the courts when that authority under the general power has attempted to be exercised. I have belief that the State of Pennsylvania is the only State in which the courts have sustained the power of the Governor generally where that power did not exist as vested specifically by virtue of a special amendment dealing with his control and supervision of appropriation bills.

To sum up the situation, then, and to express with some hesitancy and modesty my immature and premature views upon this important subject of veto, I would say that I think the ideal practice and the ideal policy would be a veto provision in the Constitution of every State which authorized the Governor to do what may be done in Alabama and in Virginia, first, return to a legislative body then in session a measure which has been submitted to him and which contains provisions which he regards as defective or faulty with suggested amendments by the executive. While that may not be a vastly important matter, I think it would be conducive to better legislation if the executive had that opportunity and that privilege.

In many cases the Governor is confronted with this situation: A measure is submitted to him that has much merit in it. The general policy of it is good, but it has defective provisions and perhaps a few distinctly faulty provisions in it. He is compelled to choose a course and accept the entire measure in that form or else reject it. If he thinks in the exercise of his judgment that the measure has more of good in it than of bad he will accept it and sign it. It would be conducive to better legislation if the Governor had the authority before called upon to determine whether he will veto an entire measure or not, to propose definite amendments or changes in measures that have already been passed in the hurly-burly of a busy legislative session and submitted to him in improper and sometimes defective form.

I feel that in all the States, except perhaps those that now give the Governor thirty days in which to pass upon and lend his approval or disapproval of the measure, it should be extended from whatever period exists now, from a minimum of three days up to thirty. I think three days is too short. I believe ten days is too short. Ordinarily fifteen days is too short. If the Governor is to be given a fair chance and a fair opportunity to exercise that independent executive judgment which the Constitution and which practice has intended he should exercise, he then should have ample opportunity carefully to study and consider the important measures against which serious objections may be presented.

I am inclined also to the view, if I may be permitted to express it, that the so-called pocket veto situation or provision should be eliminated from all our State Constitutions. It seems to me that it is a sort of unfortunate situation that develops when the Governor is permitted neither to approve nor disapprove a measure but by failure to act at all allow a measure to fall by the wayside. It seems to me it would be wiser as a matter of public policy in the country if the Governor were given ample time in which to exercise independent judgment upon every measure that is submitted to him, but require him to exercise that judgment one way or the other. Let him place his approval on every measure if that measure meets with his approval, and if it does not meet with his approval then he ought to be required under the Constitution of the State to file his objections and take the responsibility for defeating that measure, and not merely say, "This measure does not meet with my approval to the extent that I will sign my name to it, and I do not care to argue the question or file written objections, but I will allow the measure to die merely as a result of inaction." I would eliminate, if I had my way about it, I think, the pocket veto provision from every Constitution in the American States.

Now then, so much for speech No. 1 on subject No. 1.

ACTION UPON EXTRADITION WARRANTS

If you will pardon me now I shall just indulge in a few observations on the important question and practice of extradition. As all the Governors know, the foundational law of interstate extradition is the

Constitution of the United States, which provides for the extradition of persons who are charged with crime and who have fled from the State in which they are charged with crime to another State, and hinges upon the two sections of the revised codes of the Federal statutes that create the machinery, in a very brief and clear manner, under which interstate extradition is exercised. While the foundational law of interstate extradition is Federal in its character, there is a great deal of State law on the subject which is intended to be auxiliary to the execution of the extradition function as it is vested upon the Governor.

As you know, there are always two fundamental and primary questions that come before the Governor when an extradition or a requisition application is submitted to him. The first one is whether the prospective defendant is charged with a crime in the demanding State, and second, whether he is in fact a fugitive from the demanding State. The first is a question of law; the second is a question of fact which the Governor is entitled to determine or to have the opportunity to determine.

The first issue that the Governor is confronted with, that of the question of law, is not ordinarily one which causes him much difficulty. As a rule a demanding State does not request the extradition of any man upon a criminal charge unless they have at least legally charged him with a public offense, and that is certified to under the practice by the prosecuting attorney, ordinarily by the county attorney first and under the practice that has grown up in many States also by the Attorney General of both States, that is, by the Attorney General of the demanding State and by the Attorney General of the State upon which the extradition warrant is requested.

Now and then a question arises. I might say just recently I had an opportunity to construe the criminal laws of my sister State of South Dakota, a thing I had never done before, and it is not very usual to do. As Attorney General of my own State before I was promoted to the office I now hold, I frequently, of course, acted as counselor for the Governor, and undertook to interpret, at any rate, the criminal laws of my own State of North Dakota. In this instance when a requisition was presented to me as Governor for an extradition warrant the defendant, through his counsel, raised the objection before me that a crime had not been charged in the application papers from the State of South Dakota. An objection in the nature of a demurrer, as the lawyers understand, that is, an objection that the papers on their face did not disclose a crime, was charged. After consideration I sustained the objection and denied the application.

As I say, however, that problem is not ordinarily one that creates difficulty for the Governor, but the other question, the issue of when a man is a fugitive from justice, whether he is a fugitive from justice or not, is one that often creates a good deal of difficulty for the Governor to determine because that is an issue of fact which the defendant or the prospective defendant may introduce evidence upon and the State may produce evidence upon—the other State—which

places the Governor in the position of a preliminary jury and his decision is very important because if he decides the man was not a fugitive from justice, that is, he was not in the demanding State at the time or about the time the crime was committed, then he should and must, or at least he must if he follows his duty, deny the application, and that means that the demanding State fails to secure the custody of the man they are seeking. That often turns not only upon the question of fact as to where the alleged fugitive was at the time the crime was alleged to have been committed, but it turns sometimes upon identity, which is not always an easy question to determine. A man comes in and says, "I am not the John Smith at all that they have the charge against. My name is Bill Jones, and I never was in that State. And if I was, it was five years ago, the last time I was there."

The Governor has to exercise extreme care in seeing that on one hand he does not do a prospective defendant an injustice, and on the other hand that he gives the demanding State the rights to which it is entitled. Ordinarily I might say that I have so far in my short experience as Governor in the close cases resolved the doubts in favor of the demanding State because my decision, if erroneous upon that point, is not final as against the defendant, but just puts him to the inconvenience and trouble of going to the demanding State and there establishing the fact of his identity or being put on trial and compelling the State to prove he was not only there but guilty of the crime.

There are two other classes of cases that frequently arise before the Governor sitting in his extrajudicial capacity as extraditing official that cause the Governor a good deal of trouble; at least, they have me. First is that class of cases where there is a civil liability existing and arising out of the transaction upon which the extradition is based. Take the case where a man has embezzled money from his employer and has left the State and gone to another State, and the man who has suffered the consequences of the embezzlement must file criminal charges against him.

It has perhaps grown up, and properly so, that the Governor of the State in which the man sought for is located should not grant an extradition where it appears that the primary purpose of the extradition proceeding and the criminal proceeding upon which it is founded is to aid some private parties in the carrying out of a civil remedy. It is correct as a principle and very easy to state it as a principle, but not so easy to apply the principle with justice to the demanding State, for the reason that there are so many crimes out of which a civil liability arises, and in respect to which it is not only natural but it is proper that the persons who are the victims of that transaction should be seeking to recover their lost property or to regain the rights they are entitled to regain. Usually they are the persons pushing the prosecution, who file the complaint and furnish the evidence and are the witnesses to the transaction. Some of them have a very natural and, as I say, very proper desire to recover civil

remedy for the wrong that has been done them. That may appear in any embezzlement case, forgery case, or case on false pretense where property or money has been lost to some person.

What is the Governor going to do or how is he going to tell in advance that it is the desire of the person to use the criminal process for the purpose of a leverage upon him after he has gotten back into the State to induce him to make some sort of a settlement for that default? I do not believe there is any way that any Governor called upon to make a decision under those circumstances can act with any degree of certainty or with entire satisfaction to himself, because he must act before the occasion and the opportunity arises by which the interested parties may use that proceeding for the purpose of enforcing or aiding in the enforcing of a civil remedy. So that I think the only safe policy—and that isn't as safe as we would like to have it, perhaps—for the Governor confronted with that situation to follow is to indulge in the presumption, unless it appears very clearly to him to the contrary, that the prosecuting officials who are sponsoring that prosecution are acting in good faith and that they are instituting that extradition proceeding for the purpose, as far as the State is concerned, of administering the criminal law of that State. I think that in most cases we may rely upon that presumption and in few instances shall we be deceived by the prosecuting officials who have certified by the fact that they have asked for the extradition warrant to the motive back of that proceeding, which is to enforce the criminal laws of that State.

The other class of extradition cases that give us all a good deal of difficulty, I think—and it is not easy to discharge that duty and function with entire satisfaction even to ourselves—is in that large, and I think growing, class of cases where the fugitive is a man who is found in your State under circumstances indicating that he has not lived up to his matrimonial obligations and is not providing that measure of support to his wife and children in another State which the law of that State requires. I suppose the domestic difficulty and domestic friction cause as many immigrations from one State to another as any other cause that we have that affects the certain transient class of more or less irresponsible and sometimes pretty responsible citizens. In such a case—where the demanding State comes and asks you for an extradition warrant to return a man who has gone away from his children, and who has, to a certain extent, anyway for a short period of time, sometimes a longer period of time, neglected to provide them the maintenance they are entitled to—it is almost patent on the face that one of the primary purposes, if not the primary purpose, of securing the custody of that man is not to send him to the penitentiary as you do a burglar or a thief, but for the purpose of using the criminal machinery of that State as an aid toward inducing him to have a more sensitive response to his family and parental duties.

When the Governor is confronted with that situation, what is he going to do? If he cooperates heartily in all of those applications

he will find that he is not following closely the rule that extradition proceedings should not be employed for the purpose of enforcing civil obligations, because those obligations are primarily in their nature civil, even though the same transactions constitute crimes under the laws of the States that define those crimes from which the extradition demand is made. I might make this statement, or perhaps I ought to make it as a confession. I am not going to dignify it as an apology. You can determine whether it ought to be characterized as an apology or not. But I might say in those cases wherever children are involved, dependent children—and they are generally dependent and sometimes woefully neglected, and the proceeding even though on its face is intended largely as a weapon to compel him to resume his obligations as a parent rather than to punish him as a criminal—I have in every case granted the extradition and sent the defaulting citizen back to account before the courts of his own State for his conduct and let them determine whether the ends of justice will best be met by his serving a term in jail or in a penitentiary for his default or in being permitted to go out on probation upon the promise and condition that he will do better in the future as regards the taking care of his family and his children.

There are two changes in the general extradition practice which I think I would recommend. The recommendation is nothing new for me, because these changes already have been sponsored by close students of this subject of extradition in the relation to the administration of justice in the United States, and both of them have been incorporated in recommendations on previous occasions.

The Conference on Uniform Laws has promulgated a so-called Uniform Extradition Act, which has been adopted by six States, but not by the other forty-two. That act, as near as I can judge, codifies the best extradition practice that experience has produced among the forty-eight States, and in addition to that it grants, or provides, rather, for interstate extradition of persons who may not be reached under the Federal statute. The Federal statute only permits the extradition of persons charged with crime who are defined as fugitives from justice; that is, persons who were in the demanding State at the time the crime was committed. It does not reach the individual who may be guilty of a constructive crime. By a constructive crime I mean a person who, located in another State, through the medium of agents or other assistants is able to and does secure the execution of criminal designs in a State other than the one in which his body is physically located.

It is a comparatively easy matter for a man, by the use of the telephone, to sit in one State and personally direct not only the general conspiracy but the details of the execution of a crime in a neighboring State, and under the Federal Interstate Extradition Act that man cannot be extradited to the State where the crime or the physical results of the crime are carried out because he wasn't in the State when the crime was committed and is not a fugitive from justice, physically, from that State.

I think that situation can be cured; in fact, authorities are unanimous that the situation can be cured by the simple process of the States, adopting reciprocal extradition acts by State law. In other words, we could have extradition in this country if we didn't have any Federal statute; it would be possible to do it by means of reciprocal statutes between the States. Now the States might exploit their reservoir of legislative power and carry out to a fuller extent the principle of comity and reciprocity in the enforcement of the criminal laws of our country if the States would change their laws so as to provide for the interstate extradition of persons charged with constructive crimes as well as those charged with personal participation physically in crimes within a given State.

Then I would have this one further recommendation that I believe is worth consideration. I have had some experience, not as much as others, in the enforcement of the criminal laws of my State, and I have found that one serious difficulty the local prosecutor is confronted with is the inability to secure material witnesses to the prosecution at the time a given case is called for trial. The easiest way for a defendant against whom the State has an open-and-shut case, in case the State can produce all the existing evidence, to defeat that prosecution is to induce, encourage or otherwise secure the absence of the most material witnesses from that State at the time the case is brought on for trial. At the present time, as you know, there is no way under the extradition laws to extradite a witness. There is no way for one State to reach over into the jurisdiction of another State and secure a witness, no matter how important or how vital a witness that may be to the welfare of the demanding State or to the enforcement of the criminal laws of that State. Inasmuch as under the Constitution it is necessary that each defendant be personally confronted with every witness who testifies against him, and the deposition of certain witnesses may not be used against him, the only way that the State can bring to bear in that prosecution in full force and present to the jury all of the evidence that exists is, if it is possible, for that State to have present in court all of the material witnesses that know of the material facts in that criminal transaction.

It seems to me, through the use of reciprocal statutes, we might provide an interstate procedure whereby in certain given important cases the Governor of one State might make a requisition upon the Governor of another State for the arrest and transportation back to the demanding State of material witnesses in important criminal cases. Of course, we wouldn't want to open it up so that we would have a deluge of applications for extraditorial witnesses, but I think restrictions and limitations could be placed in such statutes which would make it entirely feasible for that power to be exercised, and, what would be more important in the result, if the power to extradite witnesses existed it wouldn't be necessary in many cases to exercise the power. The very fact that a witness could be extradited would induce that witness in a great many cases where he was discovered to return voluntarily rather than to be brought back under circum-

stances which would reflect upon his citizenship and his desire to tell the truth in court.

I feel that in this field of State cooperation and State comity there lie a good many opportunities of which the States may take advantage in perfecting in our country a more efficient system of administering the criminal laws of our country, and I am sure in these days, when the criminal problem has become acute and when it has become so serious that some of the best minds of our Nation are fearful for the results to the Republic, it is the duty of every State, and I believe of every Governor, to promote the utmost harmony not only in the passing of laws but in the execution of them in the direction of facilitating the more perfect and more efficacious administration of the criminal laws in the United States.

Mr. Chairman, I thank you. (Applause.)

CHAIRMAN WILSON: We who live in the State of Vermont can stand on the Green Mountains and look across Lake Champlain into the great State of New York and there we can see the prominent geographic indications. We can see the great mountains that are in New York, but I think that anybody in any State of the Union can look into the State of New York and see a man who will now address you, Governor Roosevelt. (Applause.)

ADDRESS BY GOVERNOR ROOSEVELT

GOVERNOR ROOSEVELT (New York): Mr. Chairman, Gentlemen of the Conference, Ladies and Gentlemen: During the World War, the Summer of '18, a new Navy destroyer left our shores for the coast of France. About 200 miles off the Irish Channel the commanding officer of this destroyer told one of the young lieutenants who had come into the Navy from civil life to shoot the sun at noon; in other words, to determine the position of the ship. The young man shot the sun, took his figures over to the chart board and after about 10 minutes the commanding officer noticed he was still scratching his head. He went over and said, "Lieutenant, I will take your figures and work out our position," and the lieutenant moved off.

About five minutes later the commanding officer, after doing a little figuring, summoned the lieutenant to come back, and he said, "Young man, take off your hat. This is a solemn moment."

The lieutenant said, "Why, sir?"

The commanding officer said, "This is a solemn moment, my boy. I find from your figures that we are now in the middle of Westminster Abbey." (Laughter.)

I take it that we Governors are somewhat concerned with the navigation of a fleet of 48 ships.

At a time when our country, in common with most of the rest of the world, is suffering from a severe dislocation of economic progress, all of the people are naturally and properly asking questions about State and national navigation. It seems strange to them that, with capacities for production developed to the highest degree the world has ever seen, there should come this severe depression, when

many who are anxious to work cannot find food for their families while at the same time there is such a surplus of food supplies and other necessities that those who are growing crops or manufacturing can find no markets.

This situation has suggested to many that some new factor is needed in our economic life and this new factor must come from utilizing our experience and our ingenuity to draft and to organize concerted plans for the better use of our resources and the better planning of our social and economic life in general.

It is not enough to talk about being of good cheer. Frankly, I cannot take the Pollyanna attitude as a solution of our problems. It is not enough to apply old remedies. A new economic and social balance calls for positive leadership and definite experiments which have not hitherto been tried.

Our country was of necessity developed in a highly individualistic way. Hardy and determined men went into a new wilderness to carve out homes, to gain a living for their families and to build a future for their race. But the settling of all the land on the continent, the development of a highly organized system of industry and the growth of a huge population have created new and highly complicated problems. In times of booming industry we can overlook defects of organization and danger signals from industry and agriculture, but in times such as the present these symptoms attain new importance and show us the urgency of the new problems we have to face.

More and more, those who are the victims of dislocations and defects of our social and economic life are beginning to ask respectfully but insistently of us who are in positions of public responsibility why Government cannot and should not act to protect its citizens from disaster. I believe the question demands an answer and that the ultimate answer is that government, both State and National, must accept the responsibility of doing what it can do—soundly, with considered forethought, and along definitely constructive, not passive, lines.

These lines fall naturally into a number of main heads, such, for instance, as scientific tariff aimed primarily to create a movement of world commodities from one nation to another; such, for instance, as a better thought-out system of national taxation than we have at the present; such, for instance, as a survey and plan to cut the excessive cost of local government; such, for instance, as the extension of the principle of insurance to cover fields of sickness and of unemployment which are not now reached; such, for instance, as the problem of a dislocation of a proper balance between urban and rural life.

It is this last phase that I am concerned with today and the phrase that best covers all its aspects is "Land Utilization and State Planning."

Land utilization involves more than a mere determination of what each and every acre of land can best be used for, or what crops it

can best grow. That is the first step; but having made that determination, we arrive at once at the larger problem of getting men, women and children—in other words, population—to go along with a program and carry it out.

It is not enough to pass resolutions that land must, or should, be used for some specific purpose; Government itself must take steps with the approval of the governed to see that plans become realities.

This, it is true, involves such mighty factors as the supply and not the oversupply of agricultural products; it involves making farm life far more attractive both socially and economically than it is today; it involves the possibilities of creating a new classification of our population.

We know from figures a century ago 75 per cent of the population lived on farms and 25 per cent in cities. Today the figures are exactly reversed. A generation ago there was much talk of a back-to-the-farm movement. It is my thought that this slogan is outworn. Hitherto, we have spoken of two types of living, and only two—urban and rural. I believe we can look forward to three rather than two types in the future, for there is a definite place for an intermediate type between the urban and the rural, namely, a rural-industrial group.

I can best illustrate the beginnings of the working out of the problem by reviewing briefly what has been begun in the State of New York during the past three years toward planning for a better use of our agricultural, industrial and human resources.

The State of New York has definitely undertaken this as a governmental responsibility. Two and a half years ago the State Administration realizing that the maladjustment of the relationship between rural and city life had reached alarming proportions undertook a study of the agricultural situation with the immediate purpose of relieving impossible and unfair economic conditions on the farms of the State, but with the broader ultimate purpose of formulating a well-thought-out and scientific plan for developing a permanent agriculture.

The immediate situation was met by the enactment of several types of laws that resulted in the relief of farms from an uneven tax burden and made a net savings to agricultural communities of approximately \$24,000,000 a year.

First, the State adopted additional State aid for rural education especially in the communities which are so sparsely settled that one-room schools predominate. This State aid gave the smaller rural schools the same advantages already enjoyed by the schools in the large communities.

Second, by a fair equalization of State aid to towns for the maintenance of dirt roads, putting this aid on the basis of mileage rather than on a basis of assessed valuation. Thereby strictly contrary to the old Biblical formula of "To him who hath shall be given."

Third, through the gasoline tax additional aid is given to the counties for the development of a definite system of farm-to-market roads.

Fourth, the State is embarked on a definite program of securing cheaper electricity for the agricultural communities. We propose to harness the St. Lawrence River as a part of this program, and the electricity developed is by the new law intended primarily for the farmer, the household user, and the small industrialist or storekeeper rather than for large industrial plants.

This was the program to relieve immediate needs, but it has rapidly developed into something which is far deeper and far more important for the future; in other words, State planning. We have felt that if city planning and even county planning are worth while, how much more important is it that the State as a whole should adopt a permanent program both social and economic and State-wide in its objectives. In all of this work, it is worth recording that not only the immediate program but also the long-time planning is being worked out in a wholly nonpartisan manner. It has, of course, received the benefits of study by the Legislature and legislative commissions. Much of the program has been worked out by the Governors' Agricultural Advisory Commission. This Commission consists of representatives of the great farm organizations such as The Grange, the Farm and Home Bureau, Master Farmers, the Dairymen's League, the G. L. F., members of the Legislature, representatives of State colleges and various departments of the State Government. It received the hearty cooperation of the Mayors' Conference, and unselfish business men who are willing to give thought to the future of the State and country.

This State program calls for an intensive development of the good land. For the farms that are on a permanent basis, we have definitely embarked on a policy of providing a farm-to-market road that is passable at all times, available electric power, telephone lines, hospital facilities, and a good high school. We believe that as a general State policy, it is better, under present-day conditions, to provide these services and use the good land intensively rather than attempt to use the submarginal land.

A good many people, I find, from different parts of the country, visualize the State of New York as consisting primarily of the City of New York, but it is worth while remembering, I think, that nearly 6,000,000 people in the State live outside of that city, and it is worth while remembering, I think, that New York has always ranked high among the States of the Union in the total value of its agricultural products. In recent years we have ranked somewhere between third and seventh in that value among all the States in the Union, and this in spite of the fact that the State of New York is only twenty-ninth in area.

In spite of this high rank in agriculture, we believe that there is still a large amount of land now being tilled that is better suited for other purposes than for farming.

When we came to the definite acceptance of responsibility for State planning, the first obvious step was to find out what the land area of the State consisted of. I am going somewhat into detail for my colleagues on this for the reason that a great many other States are beginning to embark on the same kind of program, reforestation, drainage, all looking toward the proper use of land, but I hope you will bear in mind that all of this planning for the details dovetails into the larger ultimate picture.

We knew, for example, that out of 30,000,000 acres, 3,000,000 were in cities, villages, residential and industrial areas; 5,000,000 were in mountains and forests, of which the State has acquired 2,000,000 acres for parks; and by the way, of this 5,000,000, the State itself has about 2,000,000 acres for the great Adirondack and Catskill preserves; 4,000,000 were once farmed but now abandoned, leaving a total of 18,000,000 acres for agriculture, divided into 160,000 farms.

The first definite step was to start a survey of the entire State. This involved a study of all the physical factors, both above and below the surface of the soil, and a study of economic and social factors, such as market possibilities, what the area is now being used for, for what it is best adapted, and how people live, and so detailed that it gives separate data for each 10-acre square. Already one whole county has been thus surveyed and we expect to cover the entire 18,000,000 acres involved within the next ten years or less.

Why is this survey being made? We are proceeding on the assumption that good economics require the use of good materials. For example, 50 years ago, the State of New York every year mined thousands of tons of iron ore and turned it into iron and steel. The discovery and development of vast fields of a more economical grade of iron ore in Minnesota and other sections of the country forced the closing of the New York State iron mines. The raw materials didn't meet the economic standard. By the same token it may have been profitable when land was first cleared to farm this land, but today, with the tremendous competition of good land in this country and in other parts of the world, it has become uneconomical to use land which does not produce good crops.

Therefore, we propose to find out exactly what every part of the State is capable of producing. From the surveys already made we have come to the belief that a certain percentage of the farm land in the State now under cultivation ought to be abandoned for agricultural purposes. I shouldn't be surprised if that percentage ranked as high as somewhere between 20 and 25 per cent. We are faced with a situation of hundreds of farmers attempting to farm under conditions where it is impossible to maintain an American standard of living. They are slowly breaking their hearts, their health and their pocketbooks against a stone wall of impossibilities and yet they produce enough farm products to add to the national surplus; furthermore, their products are of such low quality that they injure the reputation and usefulness of the better class of farm

products of the State which are produced, packed, and shipped along modern economic lines.

If this be true in the State of New York, it is, I am convinced, equally true of practically every other State east of the Mississippi and of at least some of the States west of the Mississippi.

What then are we to do with this submarginal land that exists in every State which ought to be withdrawn from agriculture? Here we have a definite program. First, we are finding out what it can best be used for. At the present time it seems clear that the greater part of it should be put into a different type of crop—one which will take many years to harvest but one which, as the years go by, will, without question, be profitable and at the same time economically necessary—the growing of crops of trees.

This we are starting by a new law providing for the purchase and reforestation of these lands in a manner approved by the State, part of the cost being borne by the county and part by the State. Furthermore, a constitutional amendment will be voted on by the people this Autumn providing for appropriations of \$20,000,000 over an eleven-year period to make possible the purchase and reforestation of over 1,000,000 acres of land, which is better suited for forestry than for agriculture.

We visualized also the very definite fact that the use of this submarginal agricultural land for forestry will, in the long run, pay for itself (we shall get that \$20,000,000 back many times over) and will from the very start begin to yield dividends in the form of savings from waste. For instance, the farms to be abandoned will eliminate the necessity of maintaining hundreds, and even thousands, of miles of dirt roads leading to these farms, the maintenance cost of which averages about \$100 a mile a year. The reforestation of these farms eliminates the need for providing thousands of miles of electric light and telephone lines reaching out into uneconomical territory. The reforestation of these farms will eliminate the existence and upkeep of many small scattered one-room schools which cost approximately \$1,400 each per year in New York State.

Two-room, three-room schools that cost large sums of money, as you all know, every year for maintenance, schools which of necessity must be uneconomically run, and where the education is almost impossible to keep up to the level of the larger consolidated schools.

That is why we are confident that over a period of years this State planning will more than pay for itself in a financial savings to the population as a whole.

Modern society moves at such an intense pace that greater recreation periods are needed, and at the same time our efficiency, State and National, in production is such that more time can be used for recreation. That is increasingly evident in this particular year. By reforestation, this land can be turned into a great State resource which will yield dividends at once. The Conservation Commissioner has just issued an order throwing open for hunting and fishing the

25,000 acres recently purchased under this program and all additional reforestation areas when they are purchased.

These reforested areas are largely at the higher elevations at the headwaters of streams. Reforestation will regulate stream flow, aid in preventing floods, and provide a more even supply of pure water for villages and cities.

We are asked what will be done for the population now residing on these submarginal lands? The answer is twofold: In the first place, most of the comparatively small number of people on these farms which are to be abandoned will be absorbed into the better farming areas of the State, and, in the second place, we are continuing the idea of the State-wide plan by studying the whole future population trend. That is where there is a definite connection between the city dweller and the population engaged in industry, between the rural dweller and the city dweller, between the farmer and the people engaged in industry.

Experiments have already been made in some States looking to a closer relationship between industry and agriculture. These take two forms—first, what may best be called the bringing of rural life to industry; second, the bringing of industry to agriculture by the establishment of small industrial plants in areas which are now wholly given over to farming.

In this particular connection the State of Vermont through a splendid commission seems to be taking the lead of all the States I know of in seeking to bring industry to the agricultural regions.

For example, one of the large shoe manufacturing companies was established in a small New York village. Many of the workers live in this village and many others live in the open country within a radius of ten miles or more. Another example is a valley in Vermont where a wood-turning factory for the making of knobs for lids of kettles has already been so successful that the trend of the rural population to the city has been definitely stopped and the population of the valley finds that it can profitably engage in agriculture during the Summer with a definite wage-earning capacity in the local factory turning out kettle knobs during the Winter months.

As a Nation, we have only begun to scratch the surface along these lines and the possibility of diversifying our industrial life by sending a fair proportion of it into the rural districts is one of the definite possibilities of the future. Cheap electric power, good roads and automobiles make such a rural industrial development possible.

In other words, there are without question many industries which can succeed just as well, if not better, by bringing them to rural communities and at the same time these rural communities will be given higher annual income capacity. We are restoring the balance.

It is for these reasons that I have spoken so definitely of a third and new type of American life—the rural-industrial group. It is my thought that many of the problems of transportation, of overcrowded cities, of high cost of living, of better health for the race,

of a better balance of population as a whole can be solved by the States themselves during the coming generation.

I have said by the States themselves because these experiments should and will be worked out in accordance with conditions which vary greatly in different sections of the country. We should not put all of our eggs into one basket. Some of the State methods of approaching the problem may not be economically sound in the light of future experiences, whereas others may point the way toward a definite national solution of the problem.

I remember many years ago when James Bryce was Ambassador in Washington. I as a young man had the privilege of attending a dinner, and after dinner the discussion came as to the permanence of the American form of government. Lord Bryce, I remember, said this: "The American form of government will go on and live long after most of the other forms of government have fallen or been changed, and the reason is this: In other nations of the world when a new problem comes up it must be tested in a national laboratory, and a solution of the problem must be worked out, and when it is worked out that solution must be applied to the nation as a whole. Sometimes it may be the correct solution and other times it may be the wrong solution. But here you, in the United States, have 48 laboratories and when new problems arise you can work out 48 different solutions to meet the problem, and out of these 48 experimental laboratories, some of the solutions may not prove sound or acceptable, but out of all of this experimentation history shows you have found at least some remedies which can be made so successful that they will become national in their application."

So, as Lord Bryce says, the American people have 48 laboratories and with all of that competition and cooperation you stand in no danger of falling before the false solution of problems.

In all of this, the States require, of course, the sympathetic cooperation of the National Government as an information-gathering body. The National Government can well act as a clearing house for all of us Governors to work through and I think that is the correct and most useful function of Washington. Instead of trying to run the whole works and to dictate methods and details to all of the States along some hard and fast program which may or may not apply in the different sections of the country, the National Government can help us in the several States to work out solutions which, in the long run, will get us somewhere.

I am very confident that during the next few years State after State will realize, as we have begun to do in New York, that it is a definite responsibility for government itself to reach out for new solutions for new problems. In the long run, State and national planning is an essential to the future prosperity, happiness and the very existence of the American people. By those means I think we shall keep out of Westminster Abbey. (Applause.)

CHAIRMAN WILSON: The Secretary calls my attention to the fact that the hour for adjournment has arrived, and he states further that he has conferred with Governor Pinchot and that it is very agreeable to the Governor to postpone delivery of his address until the resuming of the Conference at three o'clock this afternoon. That will be the program.

The Secretary has some announcements which he desires to make before this Conference breaks up.

GOVERNOR CAULFIELD (Missouri): May I suggest and move that instead of making our assembling hour three o'clock we make it two-thirty, so that our program will not be too much interrupted?

GOVERNOR ROOSEVELT (New York): I second the motion.

SECRETARY HARDEE: I see a notice, Governor Caulfield, from our host, that he wants the official picture of the Conference to be taken at two forty-five in the Japanese Garden, and he wants all of the Governors with their wives, every one, there at two forty-five.

GOVERNOR CAULFIELD: Couldn't that be moved up to two-fifteen? We will be through luncheon.

SECRETARY HARDEE: I shall undertake it.

GOVERNOR CAULFIELD: May I make this motion, then, that we reconvene at two-thirty subject to having our pictures taken before that; that is, we will reassemble when the pictures are taken, and strive to make that by two-thirty?

GOVERNOR ROOSEVELT: I shall second that motion.

SECRETARY HARDEE: These are notices directed to each of the Governors, asking them with their wives to be there at two forty-five. However, on the motion made, we shall try to get hold of Governor Leslie and have that set up a half-hour, so, instead of two forty-five, as these notices say, which you will each get, please try to make it two-fifteen.

CHAIRMAN WILSON: You heard the motion of Governor Caulfield. Is there objection to the motion, changing the hour of convening by advancing it one-half hour, subject to the change, if it can be arranged, as to the taking of the official picture? The Chair hears no objection to the motion, and it will be taken to be the sense of the meeting.

This Conference will now adjourn until two-thirty this afternoon. The meeting adjourned at one-five o'clock.

FOURTH SESSION

The meeting was called to order at three-fifteen o'clock, June 2, 1931; Governor Ritchie of Maryland presiding.

CHAIRMAN RITCHIE: Ladies and Gentlemen: We shall follow the interesting and instructive morning discussion with an equally interesting discussion this afternoon.

The subject which is assigned to the next speaker on the program is "Timber Needs of the Future." It is my pleasure and privilege to introduce the distinguished Governor of Pennsylvania, Mr. Pinchot, who will speak on that subject, or any subject which may be nearer his heart. (Applause.)

ADDRESS BY GOVERNOR PINCHOT

GOVERNOR PINCHOT (Pennsylvania): I shall take advantage of the opportunity which Governor Ritchie has so kindly given me not to speak on timber needs.

Before I begin, however, I wish to establish a perfectly good basis of quarrel with Governor Ritchie. You may have noticed him pull up these blinds just before I came up here. It has been mentioned to me that anybody who pulls up the blinds makes it impossible for the face of a speaker to be seen, and I want to impress upon you how much you are missing in the present case (laughter) by telling you of an incident that happened in a recent campaign in Pennsylvania.

I was taken and introduced to a woman of very strong character and rather advanced in years, who was keeping a tavern in a little town in Pennsylvania. I walked into the tavern with my friend and he presented me. She put her hands on her hips, looked me up and down, and said not a word for a number of minutes. Finally she said, "Kid, you look good to me." (Laughter.) So now you know.

I am grateful for the opportunity to lay before the Conference of Governors, which I am proud to have had a hand in establishing, a few words on the pressing question of the public utilities and their control over the freedom and prosperity of our people.

We are facing a new threat to the rule of the people established by the founders of this Republic. The public utilities underlie that threat. The domination of the public utilities in our political affairs is a grave and imminent danger to government by the people and in the interest of the people, which is the keystone of the arch of this Nation.

The power of the public utilities is manifest in every political assembly, from the Congress of the United States to the smallest town meeting, and from the government of the least political unit to that of the largest State. Indeed, it reaches to the National Government itself.

Far and away the strongest political power in my own Commonwealth is the power of the organized public utilities. And I venture to guess that there is hardly a single State where the pressure of public utility lobbyists upon the Legislature and the government is not known.

Theodore Roosevelt once said:

"We cannot afford weakly to blind ourselves to the actual conflict which faces us today. The issue is joined and we must fight or fail."

In Pennsylvania the Republican party is in power. The public utilities do not dominate the Republican party, or rather the men and women of whom it is composed, but they own and operate the party machinery. They control the State Chairman, the National Committeeman, and other officials of the Pennsylvania Republican State Committee; and these officials are busily occupied in doing the will of the public utilities and in defeating the will of the voters as expressed at the polls.

In the primary of May, 1930, (and I am using this as an illustration) the Republicans of Pennsylvania, and in the November election the voters of the whole State, issued their orders that the Public Service Commission be abolished and replaced by a Fair Rate Board, and that the public service law be revised so as to break the stranglehold of the electric, gas, water, trolley, bus, and other public utilities on the cost of living.

Every item in this program has been opposed, and much of it has been defeated, by the public utilities with the assistance of party leaders acting against the mandate of the voters which they were in honor bound to accept and carry out.

Let me be understood. This is not a matter of good parties or bad parties, but of interests which use parties in their business. If the Democratic party were in power in Pennsylvania instead of the Republican, I have no doubt its party machinery also would be controlled by the organized public utilities of the State, and much of the Democratic machinery is now so controlled.

The political power of the utilities is the direct result of the failure to regulate them on the one hand, and of their almost incredible expansion on the other. The electrical utilities will illustrate my point.

Beginning less than two generations ago with nothing, the electric industry has today a total investment of approximately \$12,000,000,000. It ranks fourth or fifth among all our industries in invested capital.

In less than fifty years 70 per cent of American homes have been wired for electricity, and the industry of the Nation has been electrically motored to the extent of approximately 80 per cent. I wish to repeat that 70 per cent of the homes are electrically wired and 80 per cent of the industry is run by electric power.

Meantime huge electric utility systems have grown up through the consolidation of smaller companies into larger units, and the merger of control through layers of holding companies.

Today, according to the Bureau of Applied Economics, from whose report the figures hereafter given are taken, about 90 per cent of the total electric power generated in the United States is under the domination and control of four major interests.

And these interests work together harmoniously under a common policy and toward a common end—which is the milking of the public.

These enormous mergers have been accompanied by a definite trend away from control by men skilled in the management of public utility properties and toward control by men skilled in financing such properties—and that is a very significant movement indeed.

The United States Geological Survey reports that, in 1930, 30,000,000,000 kilowatt hours were developed for public use by central station plants in the United States.

The National Electric Light Association and the *Electrical World* report that 91.38 per cent of this total production was generated by 142 companies or systems with an output exceeding 100,000,000 kilowatt hours each. The balance of 6,750,000,000 kilowatt hours, or 8.62 per cent, is generated by smaller companies.

If we assume that the control of the 9 per cent, in round figures, is distributed in the same way as that of the 91 per cent, in round figures, which seems conservative, we find that the following groups control the percentages of central station power set opposite their names:

<i>Name of Controlling Interest</i>	<i>Per Cent</i>
Morgan-Mellon group	57.12
North American group	14.03
Harris-Forbes group	12.36
Insull group	10.80
Municipal and government	2.49
Not identified	3.20

Electric consolidation, these figures show, has already gone so far that a single group—the Morgan-Mellon group—controls directly or indirectly well over one-half the electricity generated in the United States.

It needs little argument to prove that in the face of such gigantic strength any single State would be substantially helpless. For he who controls electric power controls substantially the whole round of modern life.

Already the Morgan-Mellon interests cover nearly every part of the United States, as shown in the following table:

<i>Section</i>	<i>Per Cent of Control</i>
East North Central	32.60
West North Central	34.51
New England	65.59
West South Central	68.04
East South Central	72.45
Middle Atlantic	83.86
South Atlantic	86.76
Mountain	92.70

The Morgan-Mellon group also appears on the Pacific Coast, but its interest there amounts to but 4 per cent of its total investment.

Thus the Morgan-Mellon interests are represented in all nine subdivisions of the States, and in eight of the nine their percentage of control runs in round numbers from 33 per cent to 93 per cent of all central station power produced—an amazing concentration.

Moreover, an examination of the geographical positions occupied by each of the four great groups and of their methods of operation would seem to indicate, as the next step toward complete and final consolidation, a merger of the Morgan-Mellon and Harris-Forbes interests on one side, and of the Insull-North American interests on the other. In that event the Morgan-Mellon interests would control over 70 per cent of all the electricity produced in the United States.

How is the Morgan-Mellon control exercised? The Electric Bond and Share Company, a Morgan concern, furnishes 15 per cent of the total power generated in the United States. At present it controls (although it claims only to supervise) the following four large holding companies:

(1) American Power and Light Company—operating principally in Florida, Texas, Montana, Washington, Minnesota, and Kansas.

(2) American Gas and Electric Company—operating principally in Ohio, West Virginia, New Jersey, and Virginia.

(3) National Power and Light Company—operating principally in North and South Carolina and Pennsylvania.

(4) Electric Power and Light Corporation—operating principally in Louisiana, Mississippi, Arkansas, Idaho, and Utah.

Take, now, the Florida Power and Light Company, one of the operating subsidiaries of the American Power and Light Company, which traces back to the Electric Bond and Share Company, which traces back to Morgan-Mellon control. This company, the Florida Power and Light Company, furnishes the electricity for the City of Miami.

The offices of the Electric Bond and Share Company are in New York City. With one exception the directors of the Florida Power and Light Company are all located in New York City. But that is only the beginning.

The Electric Bond and Share Company, the American Power and Light Company, and the Florida Light and Power Company, that is, steps one, two and three, have the same chairman of the board. They have two vice presidents in common; they have the same treasurer, the same secretary, the same assistant secretary, and two assistant treasurers in common. Through this chain the control of the electric light and power in Miami, Fla., is absolutely in the hands of a small group of men in New York City who can at will subordinate Miami interests to their own.

Twenty-five years ago when I predicted the coming of a unified electric power trust, I was laughed at—and perhaps naturally enough. Six years ago there was less laughter when I said:

"The question before us is not whether there shall be such a monopoly. That we cannot prevent. The question is whether we shall regulate it or whether it shall regulate us."

Today I can repeat what I said six years ago:

"As Pennsylvania and the Nation deal with electric power so shall we and our descendants be free men, masters of our own destinies and our own souls, or we shall be the helpless servants of the most

widespread, far-reaching, and penetrating monopoly ever known. Either we must control electric power, or its masters and owners will control us."

What was a prophecy then is reality today.

I have no desire to overstate the situation. Indeed it would be hard to do so.

I have no desire to be unjust to the utilities. On the contrary, I have declared a thousand times, and I declare again today, that the public utilities must be given the same square deal we demand from them for the people.

But a square deal to public utilities does not require or include the unbridled power to make such profits as they please, to control such public service commissions as might otherwise impede their march to complete commercial dominance, as they control that in Pennsylvania, or to own and operate such political organizations in cities, counties, States, and Nations as they may deem necessary to perpetuate their graft.

I call it graft, and I am well within my right. Through the device of the write-up, the electric utilities alone are today collecting from the people of Pennsylvania interest on much more than \$100,000,000 that never was put into the business.

Through overcharges in rates, the public utilities generally are collecting in Pennsylvania alone far more than \$50,000,000 a year over and above a fair return on their investments.

Through these same overcharges in the United States at large, the electric utilities alone are collecting yearly from the people a sum estimated by one man who should know at the vast total of \$500,000,000 over and above a fair return on the investment.

Graft is money collected but not rightly due. So here is graft, and, so far as I know, the most gigantic graft ever imposed or collected by any single business since the world began.

In this basic problem of the utilities the old and ever-growing interstate problem is knocking at our doors. Telephone and telegraph wires from coast to coast multiply themselves along our highways. Radio is confined by no State lines. Interstate railroads grow in mileage and importance. Mighty electric transmission lines cross and recross State boundaries. Oil and gas pipe lines carry almost measureless quantities of heat, light, power, and lubrication from deepest midcontinent sources to the seaboard on either coast. Utility trucks and busses hurry over highways from and through all the States of the Union. And now the whirr of passenger, mail, express, and freight airplanes in flight across all our States is an hourly commonplace.

Under a multitude of Supreme Court decisions, the States have no power to regulate, prohibit, or burden directly the transmission of property like gas, oil, and electricity between the States, or to disturb such interstate commerce by regulation of rates or prices, except by the clumsy device of compacts between the States—of the difficulty of arriving at which we have had such notable recent examples, as, for instance, in the Colorado River case.

The railroads, pipe lines, telegraph, telephone, and radio services, airships, busses, and trucks are lawfully subject to Federal control when engaged in interstate business. The water power development of our streams is covered by the Federal Power Act.

But the interstate transmission of electric power, though growing by leaps and bounds in magnitude and importance, is still in a twilight zone in which the States are unable to assume control, while the Federal power, although it has been asserted, has not yet been exercised. Interstate commerce in electric current is still outside of either State or Federal control.

The Federal Trade Commission reports that in 1929 the electric current moving over 946 crossings of State boundaries by electric transmission lines amounted to 14,500,000,000 kilowatt hours. The National Electric Light Association reports in round numbers 6,171,000,000 kilowatt hours so crossing in 1926; 8,920,000,000 in 1928; and 10,856,000,000 in 1929—ten billion instead of fourteen billion.

If we accept these lower figures, the actual interstate movement of electric power has increased more than 75 per cent in the three-year period from 1926 to 1929, and its relative importance to the total power consumption of the country more than 31 per cent. In certain States today, imported current, entirely free from State control, amounts to from one half to three quarters of the total consumption.

If it be true that the problem of the electric public utilities arises from their attempt to use their almost illimitable power to bring about the commercial and political subjugation of our people, then it is also true that their striking success is due mainly to the fact that this concentrated power has had to overcome the resistance of only one State at a time. Not only the electric utilities but all the utilities know well the value of the Roman principle, divide and conquer.

Perhaps I speak with particular vigor just at the moment because in the session of the Pennsylvania Legislature which ended last Thursday I got a magnificent licking from the public utilities in my efforts to secure a reasonable control of them in the public interest. So I know by practical experience what the concentration of that power, not only from Pennsylvania but from New York and other States, can actually do to a State Legislature.

The doctrine of State's rights is as impotent to settle this gigantic problem of commercial slavery and political domination as our history has proved it impotent to settle the problem of human slavery. It took a war to settle that. My hope and my strong desire is that a solution may be found for the problem of the public utilities that will be as peaceful as it is just.

The policy of "hands off" provides no answer. While the public utilities are daily protesting against even the present shadowy public control of what they call their private business, they are daily pressing forward in their attempt to establish private control of public business. And so far they have met with phenomenal success.

The people have been paying heavy charges upon mythical millions, millions that were brought into being by the strokes of pens in the

hands of these oligarchs who seek to rule America. The people are being sweated to pay high rates upon this immense mass of fictitious wealth.

How heavily every home is being drained is shown by the fact that last year when the depression visited virtually every other industry, the utility companies increased their profits over \$44,000,000. That increase broke all existing records. In other words, the highest percentage of increase they ever had came at a time when business in general was at the lowest ebb it has been at for many years.

Naturally enough, as the Governor of a great Commonwealth, I stand strongly for the rights of my State. I want to emphasize that statement vigorously, that I stand strongly for the rights of my State. But when I see the doctrine of State's rights offered as the solution for the gigantic Nation-wide problem of public utility regulation, and when, with hardly an exception worth noting, I see that doctrine failing to meet the situation which confronts us, I must look for another way out.

As the Governor, for the second time, of Pennsylvania, the second State in population in this Union and the greatest industrial commonwealth on earth, I wish to express my firm conviction, based on no little practical experience, that the question of the public utilities cannot be settled by the individual States acting alone; that the effort to settle it by individual States acting alone is hopeless from the start; that the problem is essentially national in its character; and that it can be solved only under the leadership and by the action of the Nation itself, assisted and supported, of course, by the coordinate action of the individual States.

Theodore Roosevelt said:

"I do not ask for overcentralization, but I do ask that we work in a spirit of broad and far-reaching nationalism when we work for what concerns our people as a whole. We are all Americans. Our common interests are as broad as the continent. . . . The National Government belongs to the whole American people, and where the whole American people are interested, that interest can be guarded effectively only by the National Government. The betterment which we seek must be accomplished, I believe, mainly through the National Government."

So far the quotation from Roosevelt, and so far the end of my speech.

I want to say again how greatly I appreciate the courtesy of the Executive Committee in permitting me to make this speech, and I want to express my very vigorous conviction that here, except for the great depression itself, is the most immediate and most pressing problem that now faces the people of the United States.

I thank you most kindly for your attention. (Applause.)

CHAIRMAN RITCHIE: Gentlemen of the Conference, and Ladies: In opening the latter portion of this afternoon's meeting, the round-table discussion, I know you will not think it inappropriate for me to express deep appreciation, which I know all of us feel, to the very full measure

of Hoosier hospitality which we have been enjoying both in Indianapolis and here at French Lick. If there is—and we know from our experience there is—such a thing as warm hospitality here, certainly Governor Leslie is one of the leaders in that spirit, and we are all of us, I am sure, warmly grateful for the way the people of Indiana have taken us to their hearts, and most certainly you and they have won ours. (Applause.)

This begins the open forum for the discussion of the papers which have been read and, if you will permit me, in addition to that I will recognize any Governor who desires to speak on anything germane to the duties and responsibilities of the Governors of these States.

I have had the privilege of attending the Conferences of Governors, when I could, ever since the first one I went to, which was in Harrisburg when Governor Sproul was Governor of Pennsylvania, in 1920. That certainly has been long enough to enable me to realize the very great value, the very great instructive qualities of the Governors' Conference.

It seems to me if anyone sought for a reason to criticize these Conferences he would find it in the fact that we strive a little too hard to keep controversial subjects away from our debates. The States are the governmental laboratories of the Nation. Governor Roosevelt quoted that when he spoke of the States as governmental laboratories. States are the agencies for political trial and political experiment; yet I think it is fair to say among ourselves that we, the representatives of the States, refrain from debating many of those questions which are the realities of our modern national life.

May I give two or three very brief illustrations of what I mean? It seems to me if any one thing is clear it is that the people are becoming sick and tired of the old conjure words in American politics, "inalienable rights," and "the family of fathers," and what not. They are becoming interested, are interested, in things much more practical. They want to know in these days how to get a job and how to keep it, and you can't have from five to eight million people wanting work and unable to get it—if you are a Republican it is five million, and if you are a Democrat it is eight million—(laughter) without knowing that this great unemployment situation constitutes a challenge to our social order, and that it is the strongest argument for Communism which it possibly could have.

I agree, and I expect most of you do, with those who believe that Government should keep its hands out of business and off business, except so far as may be necessary to assure fair and honest practices and an equal chance for all and an equal opportunity for all. But we mustn't forget that the dollars which are the profits of industry, which build up its reserves and its undivided profits and its surpluses are not made alone by the brains and the enterprise of those who own or those who direct American business. They are no less due to the toil and the sweat of the workingmen.

If industry enjoys these profits and creates these accumulations when times are good, in order to have them to fall back on for interest

and dividends and upkeep when times are hard, then should it not make some provision also for its labor when times get hard, instead of turning labor adrift when adversity comes and bidding it look to citizens' relief committees for the necessities of life?

There is the fundamental question in American politics today. It is reflected in every single State of the country. Every Governor here, twenty or twenty-two of us, is concerned about it and is alarmed about it. It means far more to the people than any subject or than all the subjects we could possibly discuss. There is possibly a slight exaggeration in that statement, but not much of one. Yet it hasn't a specific place on the Governors' program.

Take one more illustration, the effort to change American law from what it has been, its age-old purpose and heritage for protecting life and protecting property and protecting liberty, to a scheme of social control, to regulate the personal conduct of everybody; that and the fast-vanishing right of the sovereign States to be supreme in their local and communal affairs. Those are other modern tendencies which vitally affect everybody, and there isn't any Governor in the country who doesn't know it.

Of course, the outstanding illustration at the moment is prohibition. Everybody is thinking about it; everybody is talking about it in conversation. Why shouldn't they talk about it anywhere where it is appropriate to do it? If that question has dynamite in it, isn't it because the country endeavors to enforce temperance by a standard and uniform rule, instead of considering the diversified conditions of our diversified land and respecting the needs and the problems of the different States?

Yesterday we heard two particularly able, interesting and instructive addresses on taxation, each discussing in able manner the relationship between the State and local taxation—extremely important. But there is another phase of that subject which every Governor here knows would go straight to its heart, straight to the heart of the tax problem. If the question of prohibition were turned back to the States, then a system of excise taxes may again be built up which might do away with our Federal income tax altogether and with one stroke relieve capital, labor and agriculture from the tax burdens which rest so heavily upon us.

But, whether you agree with that view or whether you don't, is not a question which so profoundly affects every State in the Union one of the questions which the Governors of those States should debate? Where, indeed, could we secure any better evidence of how this great national experiment is actually working than from the Governors of the several States?

One final illustration. There isn't a State in the country, of course, whose people are not affected by the national tariff. Better than anyone else the Governors know, or ought to know, just how the people in their States are affected by it. If irreconcilable differences exist as to just what measure of protection American industry needs, is that any reason why the Governors shouldn't consider whether it is

desirable to erect a tariff wall so high as to destroy our export trade at a time when it is the only outlet for our surplus of goods and produce, or so high as to invite reprisals from other nations whose trade we need and whose international friendship and good will we ought to have?

Those are but a few questions which are vitally affecting the Nation today. My contention is that the policy of this Conference ought to be so changed not to permit action upon them—doubtless that is not possible—but so as to put them on the program, those and similar questions, and permit debate about them.

One thing more. We have heard this extremely interesting address from Governor Pinchot. The press has actually been speculating whether Governor Pinchot was going to speak on the subject of timber, to which he was assigned, or whether he was going to speak on the subject of utilities, to which he didn't happen to be formally assigned. Why should there have been any room for speculation or wonder on the subject? Is there any imaginable reason why Governor Pinchot should not have spoken on public utilities without the faintest question being raised in anybody's mind about it?

That is something which has become a vital issue in many of the States of the country, perhaps all of them, and what could be more appropriate than for the Governors to discuss it when their people are so seriously concerned with it? The Saint Lawrence River, Muscle Shoals, Boulder Dam—those and other developments do affect in one way or another the people of the States which we represent. One of those developments happens to be partly in Maryland and partly in Pennsylvania. Conowingo is one of the great power projects of the country, and it has 378,000 installed horsepower. It pays Maryland \$500,000 in taxes a year, and so far as my observation and knowledge go the rights of the people have been and are being adequately protected in that particular development under the concurrent jurisdiction and action of the utility commissions of Maryland and Pennsylvania.

But the point I make, however, is that, no matter how controversial this power question or any other question may be, this Conference would be ineffective indeed if the Governor of Pennsylvania were not free and welcome to discuss it before the Governors of the States which it affects.

Perhaps, since that is the last, we may open the round-table discussion by hearing from those who have comments to make upon Governor Pinchot's concluding address this afternoon. I don't want to call specifically on anyone to discuss it, but prefer to recognize those of you who voluntarily have something to say about it.

ADDRESS BY GOVERNOR CAULFIELD

GOVERNOR CAULFIELD (Missouri): Mr. Chairman and Members of the Conference: I have been very much interested, as I know all of you have been, not only in the very excellent paper that was read by Governor Pinchot, but also in the remarks of our Chairman. May

I suggest on behalf of the Executive Committee that, of course, they had no desire to restrict anyone in the subject chosen here, but in the interest of order and the program there naturally was some question as to whether one assigned a subject which had been printed upon the program should change it at will. That, however, has been settled. The whole Conference has very happily and gladly heard Governor Pinchot upon the subject which was nearest to his heart.

May I also suggest to the Chairman that the subjects that have been assigned, while they may seem simple, they may seem to be down on the lower grade of public questions, are questions which vitally affect us as Governors, and it has been thought best, growing out of tradition and experience, that we do not resolve ourselves into a mere debating society, but that we talk upon fundamental things upon which we can act when we go home, and not deal with subjects which, as the Chairman has so well said, we can take no action on, but just expire in wind and bluff, so to speak. We cannot deal with the prohibition question here except in mere oratory. We cannot advise each other as Governors in that respect, nor have we anything to do with the tariff except, as I say, to be a mere sounding-board for the reflection of opinion. Now I say it may be well we should do those things, but it has seemed to the Executive Committee that it is best that we should confine ourselves to subjects affecting our duties as Governors, to subjects upon which we can gain enlightenment, and we have been very fortunate at this Conference that our speakers have dealt with subjects which we can take home. May I say I have asked almost every speaker for a copy of his speech because I felt that upon returning home I could make immediate use of the very valuable advice which has been given to us.

I might say I think Governor Pinchot's paper is germane to our duties. It is a very important subject he has dealt with; it is something we are interested in as Governors.

I would like to say a few words on that paper which has appealed to me, has sort of intrigued me. I agree with Governor Pinchot that this growth of utility monopoly is a thing that well may concern the American people, and I know how hard it is for States to deal with these great monopolies. If any of you have ever attended a public utility valuation or rate-fixing hearing you will realize what I mean. Some little municipality with a poor little local attorney and no witnesses is up against a great battery of the most marvelous specialist lawyers in the United States, assembled by the American Gas Association, if you please, or some great association. It is difficult to deal with, but I do not agree with the Governor and I do not think he will feel, upon reflection, that we should lie down and roll over in front of these great octopi and surrender our prerogatives as States. I believe in what they call State rights, not through any petty jealousy or tradition, if you please, but I think that the integrity of the States is just as important to our form of government as the integrity of the Union. I do not concede that the Federal Government has demonstrated in the past that it is any more efficient to handle these

utility problems than the States have proven to be. The Governor speaks of—what was it, fictitious millions? Where do they come from? They come from the rule of the reproduction cost less depreciation. And that was laid down by the greatest of Federal instrumentalities, the Supreme Court of the United States. In my State, if they would let us alone, we would handle utilities; but every time we get them in a corner they rush to another Federal instrumentality, the Federal court, and get an injunction and tie our hand. They don't allow us to regulate them. That is the kind of national help we want—to be let alone—and we will handle the utilities in our State.

I couldn't help but smile at what I thought was the naive assumption by the Governor of Pennsylvania that he was going to help the situation by taking it away from the States and putting it over under Federal control. It reminded me of that case, if you will remember him, of Uncle Remus, of the rabbit and the fox, when the rabbit says, "Hang me, drown me, oh, do anything you will with me, Mr. Fox, Br'er Fox, but don't throw me in the briar bush; don't throw me in the briar bush." This great monopoly, if you please, thrives on remote control. That is what they want. In my town—in St. Louis—they resented even being carried to the capital of the State. The utilities want it; but when it is learned that our terminal association or any utility comes within the Interstate Commerce Commission our people despair and forget it, because, What does it mean? Even now it is difficult for us to handle these propositions in the State, but if these little municipalities have to go to Washington to get justice against them, they will simply surrender. They won't try to get justice.

Now, the Governor of Pennsylvania and I agree that this great problem of the electrical trust, as he has so intelligently described it, is a tremendous problem in our Government; but we do disagree—or, I take the liberty of disagreeing with him—as to the means of curing it. I say let us not surrender our State governments. They were given to us by the fathers as well as the National Government, and our structure of State governments is just as necessary to this Union as the Government at Washington. May I say that I love the National Government as well as anyone? I believe in the United States, but I believe it is more effective the more it is kept within its natural sphere. I would call upon it, when we fail to control these utilities, to help. I would call upon it, as Governor Roosevelt has suggested, for advice—yea, they can furnish us the experts to equal the experts of the American Gas Association, or else, if they do not, we can join together as States in an association of States to meet these things. But let us not invite in that jurisdiction which destroys our jurisdiction and extends that which the Chairman has spoken of, this great policing of the States which has not in all respects proven successful. I thank you. (Applause.)

CHAIRMAN RITCHIE: Thank you, Governor Caulfield. I would like to hear from any other Governor.

ADDRESS BY GOVERNOR OLSON

GOVERNOR OLSON (Minnesota): Mr. Chairman, I didn't intend making a speech, and I am only emboldened to do so by the remarks of the chairman of the day. I had somewhat similar thoughts to his when I listened to these subjects being discussed, and it occurred to me that, while the papers were very valuable (and I say in all sincerity that I have obtained some information which will be valuable to me), having been charged with the duty of governing, as we do directly to the people of this country, it would perhaps be more instructive, perhaps more educational, if we discuss subjects which are controversial. I don't intend to imply by that that we should take a vote on it or attempt to pass a resolution or to bind any member of this Conference except in so far as he undertook to express himself.

It seems to me that discussing the subject of taxation, while very valuable, is not as fundamental as discussing subjects which have to do with the means of obtaining money with which to pay taxes. We have a great outcry against taxation at this particular time because of the depression. There are other subjects more vitally related to the welfare of the American people than the subjects we have here discussed, and I assure you I don't mean by that to criticize the Executive Committee for their choice of subjects or the manner in which the subjects have been presented. For the making of this speech I blame the Chairman for establishing the precedent when he spoke about controversial matters.

With reference to public utilities, I think, Governor, that Governor Pinchot referred to Federal regulation particularly because the United States courts by a species of legal chicanery have undertaken jurisdiction of all rates of all companies, whenever any evidence can be shown which in the slightest degree would justify receivership, upon the theory that their business was interstate, and therefore exclusively within the jurisdiction of the Federal courts. That, of course, renders the States powerless to take any action, legislative or legal, except in so far as the States may make a legal appearance in the Federal courts. But even discussing a matter of regulation, why shouldn't a Governors' Conference discuss the ultimate solution of the rates charged by public utilities? For example, why should we not discuss Government ownership and operation of public utilities? Not only electric companies, but all kinds of public utilities?

I perhaps am digressing a bit by interjecting this subject. I won't deviate to any great extent by expressing a controversial opinion, so to speak—but out in the West we are very much concerned with railroad rates and we are endeavoring to bring about the dredging of a 9-foot channel in the Mississippi River, with a view of getting cheaper transportation if and when we get it. What will happen to the railroads in case the rates by water are cheaper, and consequently the railroads can't compete with that kind of traffic? The railroads secured the passage of a bill at our Legislature at its last meeting which would compel the Railroad and Warehouse Commission arbitrarily to fix the rates for transportation of merchandise by truck

at the same rate as the railroad rate was fixed by the Interstate Commerce Commission. In other words, removing competition entirely. It so happened that the bill was vetoed. Assuming that we have water transportation, will they attempt the same thing? Leading up to what I meant when I said ultimately, don't we get down to a question of whether or not the United States Government shall in the end operate, own and control all the mediums of transportation—railroad, waterway, pipe lines, and trucks—so that whatever loss there is to the operation of that permanent necessity, the railroad, can possibly be made up through transportation by waterway or pipe line or truck at a profit?

Now I am apologizing again because as a new member and a novice at the business of governing, I didn't intend to say anything. I repeat again I am emboldened by the address of the Chairman. But it seems to me people today are not interested particularly in the squabble over local jurisdiction over taxes or State jurisdiction. They are interested in some change in the burden of taxation. We heard a paper in which it was said that agriculture represents only 25 per cent of the population; that the cities represent 75 per cent, or the industrial group. We are told that agriculture on that basis at least is paying an unfair rate of taxation. I believe the distinguished Governor from Kansas said that. How are we going to change that burden? Are we doing it in some States with an income tax or are we going to do it in some other ways? Isn't that, while controversial, a proper subject of discussion? Coming down to the fundamentals, at least out in my State, the matter of taxation is much discussed but the issue is deeper than that. I would call it at best an issue of bread and butter. Are we going to eat and are we sure to eat? As the distinguished Governor from New York State said, am I going to have a job and am I going to keep it? I don't use the language exactly, Governor.

That is a bread-and-butter issue. Being a bread-and-butter issue why shouldn't we talk, for example, about unemployment insurance? It was remotely touched on. I suppose some of you would call it a dole, but yet it is a subject of discussion because it concerns the welfare of the people, and government is only existing for the purpose of making a State or Nation a better place for all the people to live in. You can talk about these matters of administration, but it gets down finally to a bread-and-butter issue, "Do I work, and do I eat?"

So I would like, if I have the privilege of attending next year, and I expect to because there is no election intervening between this meeting and the next (laughter), to see the Executive Committee place on the program a genuinely controversial subject. We don't learn anything by failing to argue; we learn by controversy and debate, and I arose merely for the purpose of suggesting to this Conference that subjects like Government ownership of transportation, unemployment insurance, the control of the price of food products, whether by an equalization fee or otherwise, are contro-

versial subjects of great importance to the welfare of the American public and proper subjects of discussion by a Governors' Conference. May I not conclude by saying that I heard a great deal about the charm and hospitality of the State of Indiana, and I have learned, Governor, it was entirely understated. (Applause.)

ADDRESS BY GOVERNOR POLLARD

GOVERNOR POLLARD (Virginia): It may be of interest for the members of this Conference to know that Virginia is about to test in the courts the very question raised by Governor Pinchot.

The recent order of the Federal Power Commission, forbidding the construction and operation of the hydroelectric plant projected on the New River near Radford, Va., by Appalachian Electric Power Company, a Virginia corporation, unless and until the Commission's standard form of license is accepted, is a direct attempt on the part of the Federal Government seriously to invade the sovereign rights of the State of Virginia and to establish a precedent whereby sovereign rights reserved to each of the States by the Constitution of the United States may be usurped.

Such jurisdiction as the Federal Government may validly exercise over waters and streams in this country emanates from the commerce clause of the Constitution and is limited to the control of navigable streams for the purpose of regulating their use in interstate commerce. In all other respects and uses, the right to regulate flowing waters is lodged exclusively in the State in which those waters are located.

The proposed hydroelectric development, which is the subject of this order, is to be entirely within the territorial confines of the State of Virginia, involves the use of no lands or other property of the United States, and is to be located at a site in the New River, a nonnavigable stream, 155 miles above the head of navigation on the Kanawha River to which New River is tributary.

At the instance of the Federal Power Commission the War Department investigated the proposed New River development and the Chief of Engineers reported that "there is reason to believe that in the future exceptionally dry seasons may occasionally occur during which the proposed project near Radford, if unregulated, might adversely affect the navigable capacity of the Kanawha River."

Upon this report of the Chief Engineers, which merely suggests a speculative possibility of interference with navigation, the Federal Power Commission found "that the interests of interstate or foreign commerce would be affected by such proposed construction" and tendered for the development a standard form of license which contains not only regulations recommended by the Chief of Engineers to protect the navigable capacity of the Kanawha River, but also many conditions wholly unrelated and inappropriate to the protection of navigation. The company has been ordered not to proceed with this development until this tendered license has been accepted.

The objection of the State of Virginia to the form of tendered license is not directed toward those provisions which are appropriate to the protection of the navigable waters of the United States, but it does object to this attempt of the United States to regulate the use and development of the streams of Virginia in a manner not authorized by the Federal Constitution.

The tendered license provides for the recapture of the development by the United States after 50 years. This would result in eventually placing the Federal Government in the business of operating a public utility in the State of Virginia and would preclude the State from obtaining large revenues by taxing this property. The license also provides for the regulation of rates in intrastate commerce where there is no adequate State regulation; it provides for the fixing of the net investment cost of the development; and in general the license constitutes an agreement to relinquish to the United States the right to regulate a Virginia public utility.

If this intrusion of the Federal Government in a field properly belonging to a State is left unchallenged, it would necessarily have the effect of curtailing the development of natural resources in the manner in which the individual State determines to be advisable. It would also mean that electrical public utilities of a State operated by steam will be regulated by one political sovereignty, namely, the State, and those operated by water power by another, the United States. It is obvious that such a situation could only lead to confusion.

The State of Virginia has for long protested against this particular attempt of the United States through the Federal Power Commission to invade its sovereign rights. Four other States, realizing the importance of the issues involved, recently joined Virginia and protested formally to the Commission. These States are West Virginia, Kentucky, Tennessee and Arkansas.

This particular case should be of interest to every State having within its borders streams similar to New River capable of water power development. The question, however, of whether or not this particular development will be ultimately constructed is of minor importance compared with the far more vital question of the invasion of State's rights and it would appear to be the duty of every State to contest every attempt by the Federal Government to usurp any powers which have been expressly reserved to the States by the Federal Constitution. The failure of the States to take such a stand upon each attempted encroachment upon their rights will mean that eventually the States will lose their individual sovereignty and become mere political subdivisions and vassals of the Federal Government.

The Governor of Virginia has been advised that in the near future a suit in the Federal courts will be instituted for the purpose of ascertaining the extent of jurisdiction, if any, which the Federal Government can lawfully exercise over such a development. So strongly does Virginia feel about the importance of the outcome

of this case that special counsel has been appointed for the sole purpose of assisting the Attorney General of the State in presenting Virginia's side of the matter.

Virginia will continue to resist to the fullest extent possible this threatened encroachment upon her sovereignty until the highest court in the land has considered this case and rendered its final decision, and it is believed that the interest of Virginia in the outcome of the proposed litigation is such that she can intervene as a party to the action.

Undoubtedly other States desire to join with Virginia in waging this fight to prevent the further encroachment upon the sovereign rights of the States, and it is believed that any such interested State can participate in this litigation, at least as *amicus curiae*.

CHAIRMAN RITCHIE: Thank you, Governor Pollard.

ADDRESS BY GOVERNOR LESLIE

GOVERNOR LESLIE (Indiana): Mr. Chairman, Ladies and Gentlemen: I came to this Conference determined I wasn't going to say anything. They kept me pretty busy in a pleasant way and other ways, but there seems to be some controversy as to why we don't enter into controversial subjects.

I am not a member of the Executive Committee, although I visited with them when they attempted and did arrange us a program. There was no objection or deviation from it whatever. But there is a reason why. I think there must have been in the minds of those who organized this Conference the idea that we are a divided body politically when we come into session. I think they had in mind that there is no law, rule or regulation whereby we are forced to attend, so it is merely a meeting to discuss our views on things that we may discuss and permit us to remain the best of friends.

I don't think that has been transgressed upon one bit. I think each and every one of us knows the problems of our States, and not one of us can say or will admit that ours are the same as any other State's. I think at this time we have in our country too many politicians and too few statesmen. We are trying to be good fellows, and Lord help us. That is what we want to be. But I think we are long on pleasantries and short on intestinal fortitude. I am of the opinion that we do know our own State problems, and I have long ago come to the conclusion that the public generally gets what it wants but not exactly when it wants it. You must educate it to all things that make up our governmental ideas, or a part of them. The States are experimental stations for the settlement of questions affecting the Governor. That is our duty, but it is mighty hard to run a government or a State as they would like to have us run it in a businesslike way as a man runs a business, when we must run it with what we would term mine-run. Big men who are making good money (and that seems to be the ambition of ninety-nine and ninety-nine hundredths of all people) can't afford to take the jobs. Many people cannot stand the criticism, whether just or unjust.

It takes a sort of a peculiar individual to hold the positions you have been elected to, and many men and women today back off from it. After all, our problems are up for us to handle and try to find out what is really best and strive to that end. The subjects that have been touched upon in this Conference have been very, very interesting to me. I have attended two previous to this, and at one of them—it isn't necessary for me to say which one—the papers were fine, well prepared and well presented, but the sum and substance of what was in them was water over the dam with the State of Indiana and in the case of many other States. So after all, the real pleasure and good I get out of your Conferences is that I may know these individuals, and when we do have things, whether of size or of minor importance, come before us, we know that fact, and it is so much easier to deal with one you know. Most of our troubles, many of them, are due to the lack of understanding and knowing of the other fellow. There are a lot of good men and women in this world. They are most good and they are most honest, but I never could understand why all the honest ones are not in public life and the dishonest ones are all in public life. (Laughter.) I never could quite understand that.

I am not going to take more of your time, but I just want to give you the results of one little experiment in reply to a paper this morning, and that was something about a building commission that they have in some States.

I understand the workings of it in some States. I get my knowledge from a legislative bureau which we have established in our State, and it is very, very helpful. The only mistake they made is that it is probably the most efficient department we have in the State. It is the only department I know of that is too efficient. They are too efficient because they assist and are qualified to assist the legislators in preparing bills. That is where they are too efficient. Now a legislator comes into our State Assembly. He steps into the legislative bureau—and they know as much about it as a candy frog—and he says, "Prepare me a bill," and that is where we get the legislator. We put some restrictions on him later. I want to give you the results of one experiment, and it is in reply to one of the morning papers.

One of the speakers mentioned a building commission. We haven't such a thing in our State, but we did have, and we do have 24 institutions, and 23 of them do not have technical engineering advice. One of them, a State institution training engineers, is very equal to the occasion. They make those that help us along that line, and it has quite a reputation as an engineering school; but the other 23 have no technical engineering advice at their call, nor do they have the money to provide it. I object to a political building commission, so I appointed (I trust all of you have an emergency fund) an engineer in whom I have wonderful confidence and who has by his past 27 or 28 years' experience proven himself a man of high grade and honesty, whose opinions are respected. I hired him, and I will say to you, in

less than two years—I can show you the figures—where he is subject to call by the institutions (or anybody can write in to the Secretary and say he wants him) he has actually saved nearly \$300,000 in those two years in supervising plans, specifications, and proposing many improvements in the 23 State institutions.

That is a thing you get some results from. I just want to give you the result of my experiment on one of the morning papers. I wanted to give you my idea of why we possibly don't get into the controversial matters, because, as I say and have said before, we are divided politically; nothing forces us to come here, and if we come here they say, "I didn't get anything out of it." On the other hand, it is very easy that we should cause ourselves to feel like others—no more on that side than on this side, and we are not going to get along. Whether I get another thing or not out of this Conference, I want to say to you that the one thing I do get that will help me in many, many ways in the future, so long as I am an executive, is to know that the men who are here today—and there are 21 of them—are honest. That is what I want to know, and I want to deal with them and know them, and I know our relationship will be pleasant. (Applause.)

DISCUSSION BY FORMER GOVERNOR GOODRICH

CHAIRMAN RITCHIE: Gentlemen, whom shall we recognize next? There were a number of papers. Governor Roosevelt read a most interesting paper; so did Governor Gardiner, Governor Shafer, and Governor Dern; but I suppose there isn't enough time to deal with them specifically. I shall be very glad to hear from any Governor, and I know the Conference will, on any of those subjects.

FORMER GOVERNOR GOODRICH (Indiana): I don't want to prolong the discussion, and yet there were some of the things said with reference to the paper of Governor Pinchot that I think need some attention.

The Governor of Missouri said what they wanted out there in Missouri was to be let alone, and complained about the utilities going into the Federal courts when the Public Utility Commission of that State didn't give them what they thought they were entitled to. They can't be let alone in that respect, for just as long as the court takes a stand, just that long any utility or any citizen of the country, if they think they are being deprived of property, can by due process of law go into the court and raise the question of the reasonableness of the rates. That will be true as long as the provision in the Constitution stands.

The Governor of Virginia also said that the Federal Government was invading the sacred rights of the State of Virginia in the power matter on the New River, I believe. I don't see what there is sacred about that right in the State of Virginia, if the right of a Nation intervenes, or say that the Government can't act in a matter of that sort. They are doing it in railroad matters all over the country today. You can't build a railroad five miles long in any State in the Union

without going to Washington and asking the Interstate Commerce Commission for permission to do it. No State has a sacred right to say it can build a railroad anywhere. They must go to the Federal Commission for that. The reason of it is that intrastate transportation affects interstate rates, and the Government steps in to prevent the unnecessary duplication of utilities committed to public service.

Whether you like it or not, or whether you are for State's rights or National doesn't make any difference, but it is my opinion that the time is near at hand when these great power companies will be brought under national regulation. The same national interest that brought about the creation of the Interstate Commerce Commission will, in the long run, bring about the control of these utilities.

Something was said about securities. There is no sort of regulation today about the amount of securities a holding company may issue, nothing but the ability to sell them to the public. Your answer to that is: "So long as the operating utility within the State is regulated by State authority, why regulate the holding companies, because the holding companies' securities have nothing to do with the rates that are charged in the local communities?" Governor Roosevelt, that question was raised in your State something like twelve or fourteen years ago. Whenever the public utility commission reduces rates to a point where it begins to affect the securities then in the hands of the public, just that moment will there be an outcry raised that you are interfering with legitimate business and hampering the sale of securities, and everything of that sort. It has been done in the past and will be done in the future. I say it is impossible for the States properly to regulate these great interstate power companies.

In our State, and Governor Leslie well knows it, we had a man by the name of Chase in the City of Martinsville, who charged rates unquestionably too high. There is no doubt about it. He charged rates clear out of line, as compared to cities of the same size in other States, in Union City and Warsaw, Ind. When it undertook to defend its rates—the long-distance transmission lines, power plants, and everything of that sort—the cost of the investigation was simply prohibitive, and it couldn't be done.

I don't desire to prolong this discussion, but on that matter I am quite sure the public interest will in the end—I said this in your State, Governor Pinchot, 17 years ago, and I repeat it now—demand the control of the holding company that sold property and consist of the ownership of these local utilities.

May I go on to say a few things which I know Governor Leslie, out of his great modesty, wouldn't want to say? Governor Roosevelt, you spoke about several things in your paper, things you are projecting in New York, but among others you mentioned the aid of the local schools by the State. Governor Leslie knows we have been doing that in Indiana, and are going right along voting hundreds of thousands of dollars every year to help the little country schools. Indiana holds that the education of the boy and girl back in the hill towns is

just as important as the education of the boy and girl in the City of Indianapolis.

The figures are rather interesting, Governor Roosevelt. The State of Indiana pays out in school taxes \$1,893,000, and almost \$500,000 of that is distributed among the country schools of the State. We have in Indiana two townships which are voted State aid. In one of them the amount of State aid voted to that township would buy the property of every patron of schools in that particular township. In another the State aid paid to that township would buy every foot of land improvement made in that township.

We are having the same difficulty in our State that you have in New York—the cut-over land no longer fit for agriculture. We have something like 2,000,000 acres of land in our State. Under the wise direction of Governor Leslie we have a levy which brings a minimum of \$100,000, which means the cut-over land and building up the forestry preserves in our State is already over 50,000 acres, and which we hope will prove to be of the size of the reservation in the great State of New York.

I think, Governor Roosevelt, there is one question you raised there. You spoke about the St. Lawrence waterway and the utilization of that power. I am not certain yet that all the rest of the States of the Union are ready to recognize the right of the great State of New York to take that power. It is an international stream regulated by treaties between ourselves and Canada, and I think later on that question might properly be discussed.

Then inevitably, I think there comes into the address of Governor Roosevelt this same question we have had in the address of Governor Pinchot. Governor Roosevelt stated that the State has embarked on a definite program for cheaper electricity for the farming community. If we are not to have State operation or Government operation, the State of New York and every other State already has the power to fix the rate in farming communities and in every other community. If we are to invite the Government's ownership, it presents an entirely different aspect. We would like to know how the State of New York is going to bring about cheaper rates to farmers and small industrialists in that State by any other method than the State regulation which they now have.

In that same paragraph you propose to harness the St. Lawrence as part of a program to be used for farm, household, small users, industrialists, storekeepers, and so forth, to develop electric power, telephone lines, good schools, and so forth, in the State. I hardly see how that is going to be done, except through Government ownership and operation of these great utilities. I can't acquiesce in that, and I don't think it ought to be done, but if it isn't to be done that way the State has all the power necessary to do that.

The whole question of public schools and education is just as difficult for us as it is for you. You speak about doing away with the single rural schools, consolidating schools, and so forth. Governor Leslie well knows that in Indiana we have had that for years. It

had the first county in America that had complete consolidated schools, and Governor Pinchot has in his State Dr. Lee L. Driver, of Indiana, who is the father of the consolidated-school system in the United States and built up the great system.

NEW YORK POWER PLAN EXPLAINED

I have said these things because I know Governor Leslie's confounded modesty wouldn't have permitted him to say them himself.

GOVERNOR ROOSEVELT (New York): Gentlemen, Governor Goodrich has asked a question about the principles underlying the development of St. Lawrence power, which may have been of interest especially to you Governors who have not navigable streams within your borders which are capable of development. In the first place Governor Goodrich has questioned the ownership of the power on the St. Lawrence. Going back to Colonial times it has been very clearly established that the actual bed of the St. Lawrence River out to the international border belongs to the people of the State of New York. Therefore, on that basis of historic ownership, the people of the State of New York are of the belief that they have the right to development for their own benefit, primarily of the power that may result from the building of a dam or dams on that bed of the stream. That has, of course, absolutely nothing to do with the question of navigation. Navigation is very clearly constitutionally a matter of Federal or National development, and the navigation of the St. Lawrence must be developed for the benefit of the whole Nation, excluding all the States of the Middle West and of the Northwest. The two projects go absolutely hand in hand for the very simple reason that any power dam which is put up would serve a navigational purpose through the elimination of the present rapids in the St. Lawrence River, or if you put it the other way around, a navigational dam would necessarily develop power.

When you come down to the question of the distribution of that power, for a great many years the question of who should build the dam was a political issue in the State and it was not until one year and a half ago that the Legislature finally authorized the creation of a commission and recognized by the statute itself the principle of having that dam and the power houses built by a State authority, not by any private company. Up to two and a half years ago the question of the distribution of this power to the rural communities had been left rather in doubt. Two and one-half years ago the Administration, after a very careful survey, came to this simple conclusion: That even if the State were to develop the power of about 1,250,000 horsepower through a State agency by building a dam and a power house, they would have to go one step further in order to insure low enough and reasonable enough rates to the ultimate consumer.

If we had followed the usual method of State regulation the State of New York would have subjected its people to rates due to all of these Federal decisions which have been mentioned before today (the Federal court decisions relating to valuations and all the other

things that body of court law has built up in the past 15 or 20 years, practically speaking), and we would have been able to make rates only such as the Public Service Commission would approve, the Public Service Commission being unfortunately bound to a large extent by the decisions of the Supreme Court in Washington.

How, therefore, did we undertake to get around those decisions? By the simple process of going back to the old theory of contract. In other words, by a written agreement between private transmitters and distributors, private companies. Those private companies must, of necessity, by contract, take away from themselves, divest themselves of any appeal to court decisions. In other words, the new commission for the actual process of development has been appointed. We hope this new commission will be able in order to prevent duplication of existing lines to make a fair contract with existing utility companies, under which contract the utility companies will receive the actual cost of transmission, the actual cost of distribution, plus a reasonable profit on that transmission and distribution.

Now if such a contract cannot be made the State is not going to be left with 1,250,000 horsepower on its hands. We propose to take the next step. The next step will be to make an effort to find some other private agency which will be willing to transmit throughout the upper part of the State and to distribute to the people of that part of the State on the terms and principles laid down in the law itself. Failing in that, there is but one alternative, obviously, and that is for the State itself to undertake transmission and/or distribution.

On the question of where this power is going, it is expressly stated in the law that the primary use of the power shall not be for the large manufacturing companies which take bulk power, but must use the principle of distributing it to the homes, the farms and the smaller businesses throughout the State. This can be done at rates certainly far more reasonable, far lower than are being paid by these individual householders at the present time, in part through the profit which will be made on the distribution of a certain proportion of that power to the larger manufacturing interests.

Also, we are taking one further step which has been taken by Public Service Commissions in several States, and that is the principle of not penalizing a man because he happens to live a fairly long distance from a main transmission line. The best example of that that I know is down in Alabama. The Alabama Public Service Commission realized some two years ago, I think it was, that in northern Alabama they have all the power in the world at very cheap cost. They have plenty of coal and have plenty of water power, and the actual cost of transmitting and distributing that power to the rural dwellers in northern Alabama would be extremely low. On the other hand, in southern Alabama, down on the Gulf (I think a distance of something like 400 miles— isn't that right, Governor Hardman?) there is no coal and there is no water power. There-

fore, the Alabama Public Service Commission laid down the rule that just because a man happened to have been born and brought up on a farm in southern Alabama was no reason for penalizing him greatly over his cousin or neighbor who happened to have been brought up in the northern part of the State, 400 miles away. The result is that the rates laid down for rural electrification in the State of Alabama provide substantially the same rate in the southern part of the State as in the northern part of the State. That is saying, in effect, that the farmer in northern Alabama is paying, frankly, a part of the cost of transmitting power 400 miles away for his fellow citizens of the same State. I believe that principle is being fairly well recognized today not only among Government agencies but also among the more intelligent and more progressive of the utility people.

FORMER GOVERNOR GOODRICH (Indiana): Do you know what the rural rate is in Alabama?

GOVERNOR ROOSEVELT (New York): Roughly, as I remember it, I think probably Governor Hardman would know this better than I, I should say about 5 cents a kilowatt hour for farm use.

GOVERNOR HARDMAN (Georgia): I think probably that would be a little high.

FORMER GOVERNOR GOODRICH: What is the rate in New York State?

GOVERNOR ROOSEVELT: The rate in New York State on the average on the farms is, I should say, 10 cents.

FORMER GOVERNOR GOODRICH: That is about the rate in Indiana.

GOVERNOR ROOSEVELT: We think it is much too high. By using that contract method we are trying to avoid some of the things that have been foisted on us by the Supreme Court down in Washington.

FORMER GOVERNOR GOODRICH: You can't develop that waterway without consulting the Federal Government for such regulation as they see fit.

GOVERNOR ROOSEVELT: Undoubtedly.

ADDRESS BY GOVERNOR BLACKWOOD

GOVERNOR BLACKWOOD (South Carolina): I am not coming forward so much to make a speech as I am to voice my gratification upon being here, as I apprehend we are now approaching the conclusion.

I do wish to say I have just passed through rather an anxious aspect of the power situation in my little State of South Carolina. My General Assembly passed an act of taxing them five-tenths of a mill per kilowatt hour, and incident to that legislative inquiry there were certain disclosures made that led to the suggestion of a general investigation. They endowed me with the power to appoint or constitute a commission of five to go into the matter of the justice of the tax rate or justification of taxes at all, and further to go into the matter of fixing rates as between the power

companies, individuals and consumers. We regard it as a critical step, not having traveled that way before, and during recent years have attributed, without knowing definitely whether or not it was true, to the power companies the fact that they had brought a great many factories into our State and a great deal of wealth into our State that was not there before they came. Having perhaps developed one fourth of the dormant water power within our borders, we thought it would be well to allow them to progress a few years before they were molested by taxation.

We had thought that. That was an argument that was advanced, but upon investigation we saw they were no longer infants in that field and we might as well proceed regularly as in cases of other property holders and other enterprises.

I feel, without having explored that field technically and definitely to any great extent, that the State in this case, as in all cases, ought to reserve all the power it has to do the things that ought to be done as they appear from time to time, and if we have not sufficient power as States to regulate not only the power trusts but any other trust, we ought to memorialize Congress and the Federal Government to allow us to retain all we have and fortify us with some more. If we have it not, of course at this time there is not a great deal we could do about it, but it is my purpose to appoint a fair and impartial committee of five to investigate matters of rates, and I believe greater good will result from the investigation of rates than will redound to us by way of taxation, although the income will probably be something like \$1,000,000 annually in South Carolina. So much for that.

I wish to say I have enjoyed these discussions generally. I enjoyed immensely the discussions of yesterday with reference to taxation and revenues, and very definitely did I enjoy, being a lawyer, the questions that were discussed this morning in respect to extradition and the veto powers. Those are things that will come along from time to time with their annoyances and their peculiar problems as they affect us locally.

I enjoyed immensely what was said by my distinguished friend from Utah this morning as he discussed the powers and prerogatives of chief executives. I do think we annoy ourselves a great deal about things that do not properly belong to us, and I would be glad if we had some magic power to rise to that height of propriety and ability to be able to shed or discard a great many of the things that haunt us as Governors that we should not engage in. If we could rid ourselves of something like 80 per cent of the problems that constantly annoy us and perplex us, and devote ourselves more largely to the major problems, such as were so wonderfully presented this morning by Governor Roosevelt on the matter of State planning—his speech stood out like a beacon light in the distance—or if we could go further in the suggestions that have been made by my distinguished friend, the newly made Governor, Governor Pinchot, regulating and modulating the power com-

panies; those would be great questions if we could devote a little more time to them.

You know, when we have done all we can in the way of relieving the present emergency and situations that are at present pressing in upon us, we haven't gone so very far. When we relieve the distress that results from unemployment temporarily, we haven't gone anywhere much toward assuring ourselves that it will not be repeated pretty soon again.

My idea is that if we could in some way or other devote ourselves more largely to remedial efforts, that is, efforts that were corrective in their character, and not be so constantly and repeatedly annoyed by the pressure of the hour to please the situation and satisfy it as it exists today and as it will exist perhaps for 18 months to come, until after the next election or until after some duration of time has passed, we might be able to do something constructive.

Some fellow said something like this: "He who helps me in my distress is my friend; he who enables me to help myself is a better friend; and he who makes it possible for me to help somebody else is my best friend."

If we can get the foundations of this thing aright, it is perhaps just as immediately near in prospect of achievement as to administer to the bread-and-meat aspect of the game. It is perhaps just as practicable for us to do something that will make these problems unnecessary in the future, and at the same time administer a present relief.

I wish to say, so far as I am concerned and on behalf of those associated with me directly on this trip, that Indiana hospitality has transcended the bounds of my imagination. It is more than I had hoped it would be. I have enjoyed every minute I have spent within the borders of the grand old Hoosier State. (Applause.)

GOVERNOR DERN (Utah): I arise for the privilege of making a suggestion. Before doing so I would like to make one or two observations.

I don't know whether the Executive Committee should feel it has been under fire this afternoon or not, but on behalf of the Executive Committee I may say that we have been attempting to live up to the traditions of this Conference which have been the result of many years of experience, and we have not had a rule to keep out controversial subjects because we have had controversial subjects here today. We had controversial subjects last year.

Governor Olson mentioned unemployment insurance. That was one of the subjects last year, and was discussed quite thoroughly, and we have them every time, but we don't consider that the Governors' Conference is a third house of Congress. We are here to discuss State problems and we don't feel it is our job to take our Senators' and Congressmen's jobs away from them. We think a good deal of resentment might be caused by that sort of an attitude.

Furthermore, the Executive Committee feels it is its duty to protect the Conference itself, and we have learned of an incident that occurred long before I was a member of the Conference which nearly disrupted the Conference. I understand that the question of prohibition was injected into the Conference at one time and the discussion became very violent and a number of the Governors served notice that if the Conferences were going to be used for that sort of purpose they would sever their connection with it, and that would probably have been the end of it.

There are probably many State problems of interest to all the Governors, and for the most part that is the sort of problem we have endeavored to put on the program for the various Conferences. As far as I am concerned I should be very glad if next year we wanted to make the entire program up on State rights on these different subjects. I don't see any particular need of discussing a subject that is peculiarly in the province of Congress, but I think it is proper for this body to discuss the effect that national legislative measures might have upon the rights of the States. From that standpoint it seems to me it is perfectly proper to discuss problems that are more or less national in their scope and from that standpoint of course Governor Pinchot's discussion of the power problem was very proper. We may differ as to whether the States should surrender any of their rights and prerogatives with respect to controlling the power companies.

With that much of a discussion I shall make the suggestion I had in mind. It is now a little after 5 o'clock and we have had one of the best discussions this afternoon we have had for a long while, but I apprehend it is about time to quit. The suggestion has been made, and I convey it to you because it has received favorable reaction from the Governors here, that it is going to be very difficult to get the Governors together tomorrow morning in time to hold the business meeting before train time. We were supposed to meet this morning at 10 o'clock, and it was nearly 11 before we got a quorum. Probably it will be very difficult to get the crowd together tomorrow morning and hold the business meeting. The business meeting will take only a few minutes and the suggestion has been made that we might hold that business meeting tonight and have it over with while we are all here. I submit the suggestion, and in order to test the sentiment, I move, Mr. Chairman—I shall make the motion formally, after the discussion is ended—that we hold the business session now which was scheduled for tomorrow morning.

CHAIRMAN RITCHIE: Governor Pinchot has asked for a few minutes and if there be no objection we shall hear from him before I put the motion.

GOVERNOR PINCHOT (Pennsylvania): I shall take just a moment, Gentlemen. I think one or two misapprehensions exist in your minds that I would like to clear up. First as to the question which

Governor Pollard has discussed. I have every respect for Governor Pollard and so has everybody who knows him. I think the Governor was in error in saying that this was a question of usurpation of State rights by the Nation. As a matter of fact the attitude taken by the Federal Power Commission in this matter is the same as has been taken, Governor, for generations, holding that streams navigable to the extent of New River are under Federal control, and the effect of the protest which Virginia is making, if it should be successful, would be substantially to abolish the Federal Power Act and turn power companies on that stream free to develop without any Federal regulation at all except the limitation of 50 years. The fight was made for 15 years to get control of developments on that, little streams being directly attacked by the power companies, who are attempting to enable them to escape all Federal regulations on those streams except on the limitation of time.

As to one other matter I want to make my position absolutely clear. Several of the Governors in this discussion have spoken as though I were proposing to abdicate the powers the States now have in favor of Federal power. Nothing could be further from the truth. I venture the statement that there is no other Governor here who has made a more vigorous fight for the assertion of State rights against public utilities than has been made during the past year in the State of Pennsylvania, and I hold vigorously to all the rights that Pennsylvania has, every single one of them, and I desire to give up none of them, but the situation is such, as I explained, that there is a very large field in which state-wide interests cannot override the Constitution of the United States and the Federal Government has not exercised the power which it asserts it has.

The one thing that the power companies are wanting more than any other single thing is the assertion of the right of the State as against the right of Federal Government. They know, and so does everybody else who has gone into a fight against these people, that the effort of a single State to control organizations to cover the whole United States like a web, whose capital is measured into billions of dollars, who bring from many States into the States where regulation is attempted lawyers and other representatives, who form a great consolidated interest able to throw the whole of their power against a single State at a time—the effort of a single State alone to cope with masses of power of that sort is perfectly hopeless.

I don't want to give up any power Pennsylvania has, and I don't propose to, but when I attempted during this last Legislature to exercise the power that everybody recognizes Pennsylvania has, they sent their lobbyists in from New York and perhaps from elsewhere and destroyed that attempt.

I am asking not that the States should give away anything, but that the appeal should be made to the Federal Government in addition to the States to cope with these people who are so strong that no single State has a chance against them. We will carry off

victories here and there, as Governor Roosevelt has so magnificently done in New York, and I am going to lick them in Pennsylvania before I get through, if I live long enough, but in the meantime power transmitted over State lines has absolutely no chance to be regulated by the States unless we change the Constitution, and I haven't heard anybody suggest that, and the Federal Government hasn't exercised its power. We have just exactly, as individual States, the chance to regulate these vast monopolies that a province of France, or Luxemburg, would have had in the Great War to concentrate against the power of the whole German Empire. We might as well look the situation in the face.

I make the statement that State's rights is the rocking-horse behind which these great power concentrations are attempting to get control of politics and the economics of the various communities.

With all due respect to Governor Caulfield, I have heard time and time and time again attorneys of public utilities make, in substance, exactly the speech which he made here—not suggesting in any way that he was expressing any opinion but his own. But the power of these men, who continue the gigantic graft which they are now collecting from the people of the United States in hundreds of millions of dollars a year, depends absolutely on keeping the Federal Government out of the fight.

What I am trying to do is not abrogate any power any State has, but to get the power of the Nation as a whole to fight monopolies which in every sense of the word are nation-wide. I want to make my position perfectly clear in that matter because this is going to be a fight as a political issue for many years to come, and a fight on which the position of each one of us ought to be clearly defined, and there ought to be no misunderstanding about it.

I am for the use of Federal powers to the utmost where State power fails. I would rather have Federal power come in than to have these great monopolies continue and run over the States as they choose and as they have been doing.

CHAIRMAN RITCHIE: I understand your motion to be, Governor Dern, that the open forum being concluded the Conference now take up the business session which would otherwise be tomorrow morning.

All in favor of that motion kindly say "Aye"; those opposed, "No". The "Ayes" have it.

The meeting adjourned at 5:20 o'clock.

BUSINESS SESSION

The meeting convened at 5:30 p. m., June 2, 1931; Governor Case, Rhode Island, presiding.

CHAIRMAN CASE: The business session of the Conference will please come to order.

As Chairman of the Executive Committee, I am presiding at the business session, and although Governor Olson was to preside tomorrow morning he has yielded to the Chairman of the Executive Committee to preside at this particular business session.

We were instructed by the members of the Conference last time to look into the question of a permanent Secretariat. The Executive Committee has met, has had correspondence with every Governor throughout the United States, either those who were in office last year or those who are now in office, and the matter was referred by the Executive Committee particularly to a committee of one, namely, Governor Dern of Utah, because we believed one could handle it better in preparation and then submit it to the Executive Committee and then the Executive Committee make the report. I therefore call on the Governor of Utah to make the report for the Executive Committee.

GOVERNOR DERN (Utah): At the 1929 meeting of the Governors' Conference held at New London, a suggestion was made that the Conference establish a permanent secretariat, which would be a clearing house of information to which a Governor might write at any time for data on any subject.

At last year's meeting this suggestion was discussed at considerable length, and upon motion of Governor Caulfield it was referred to the Executive Committee with instructions to prepare a plan and budget and submit it to the present Conference.

The Executive Committee appointed me as a committee of one to prepare a tentative plan which might later be discussed at a meeting of the Committee. With some expert assistance I formulated the outline of an organization which I then submitted to all the Governors by mail for their reaction. A large number of replies was received, which were notable for their lack of enthusiasm. While a few of the Governors were favorable, several were definitely opposed to it, and others did not think such a secretariat would justify itself. A considerable number apparently were unwilling to contribute out of their contingent funds toward the maintenance of such an organization, and some of them did not feel like suggesting this new expenditure to their Legislatures.

I reported the above facts to the Executive Committee at a meeting held last December.

PERMANENT SECRETARIAT PLAN DROPPED

In view of the sentiment developed by this mail referendum the Executive Committee decided that it would not be wise to attempt to establish a permanent secretariat, and that the matter should

be dropped. I am authorized on behalf of the Committee to make that recommendation to the Conference.

I move the adoption of the report and that the matter be dropped.

GOVERNOR CAULFIELD (Missouri): I second the motion.

CHAIRMAN CASE: Are you ready for the question? All those in favor please say "Aye"; those opposed, "No". The motion is so ordered. The Secretary will read some telegrams.

SECRETARY HARDEE: Telegram from Governor Rolph of California, addressed to the Secretary:

Dear Governor Hardee:

I deeply regret that due to pressing legislative matters I am deprived of the pleasure of attending the Twenty-third Annual Governors' Conference which opened this morning in French Lick, Ind. However, I send greetings and best wishes from our Golden State of California to all present and hope to have the pleasure of attending the Conference next year. Very sincerely,

JAMES ROLPH, JR.

Another telegram addressed to Governor Hardman, which Governor Hardman desires to have placed in the record and read to the Conference, is as follows:

Twelve Governors have either issued proclamations or made some other form of announcement regarding National Cotton Week. It would be fine if you would obtain resolution from Governors' Conference today indorsing Cotton Week, also if you could get a picture made of the Governors' wives at French Lick in cotton dresses. Price of cotton means more to the State of Georgia today than any other one factor, and is an important subject to the Nation as a whole. Believe your aid in this direction would be particularly beneficial at this time.

CASON J. CALLAWAY.

And a telegram of similar import addressed to Governor Roosevelt from George A. Sloan, president of the Cotton Textile Institute.

Those are all the communications.

GOVERNOR HARDMAN (Georgia): I would just like to state after receiving this telegram, of course I knew the Conference under our system wouldn't be authorized to take any action in regard to it, and yet these people down in Georgia who are so much interested in the cotton industry there are people of great influence not only in Georgia but they have a commission house in New York, and for that reason I simply want to present the matter so that I might wire him the facts in regard to it, that it had been presented but they take no action in regard to these matters, and that is the reason I submitted it.

GOVERNOR POLLARD (Virginia): I move the Secretary wire back that the Governors' Conference has no control over the wives who are here present, and I think we might answer in the language of a fellow who had had an engagement with a good friend of his for a good time one night, and he couldn't keep his engagement and telegraphed something like this: "I can't be present with you tonight as per my engage-

ment. Circumstances over whom I have no control prevent me." (Laughter.)

CHAIRMAN CASE: The next matter of business before the Conference is the receipt of invitations from Governors present, if they see fit, for the meeting of the Conference next year.

GOVERNOR ROOSEVELT (New York): Before we go to that order of business, may I submit two things by request?

The National Crime Commission—that is not the Wickersham Commission—has offered to the Governors, at its own expense, to collect, digest and distribute to all Governors such information regarding what is being done in the various States for the suppression and prevention of crime as may be obtained through the cooperation of the various executive departments from Governors' messages, legislation or reports of commissions.

I submit that merely with the expression of hope that we will all cooperate with the National Crime Commission, which is obtaining very valuable figures in regard to crime, when they make this request upon us.

The other matter I submit chiefly because it comes from a very distinguished American writer and poet, Mr. Robert Underwood Johnson, our former Ambassador to Italy. For some years he has been trying to get the Executive Committee of the Conference to list as one of the subjects something that is very close to his heart; in other words, a plan through the cooperation of the States involved and the National Government for a continuous reservation of the upper altitudes of the Appalachian chain of mountains all the way from the southern end clear up into the northeast part of the country, which I take it extends even into the State of Maine. He expresses the hope that at the next Governors' Conference this will be made one of the topics. I suggest it be referred to the incoming Executive Committee.

CHAIRMAN CASE: If there are no objections, so ordered.

Invitations. Governor Pollard, you were on your feet.

GOVERNOR POLLARD (Virginia): I desire to repeat the invitation which I extended to the last Conference to meet in Virginia in 1932, which is the bicentennial of the birth of the Father of Our Country. A series of celebrations are going to take place in Washington and in Virginia, and in fact in a number of States most closely connected with the life of Washington. I think it would be most appropriate for us, in this bicentennial year, to meet in Washington's native State.

As I understand it, under the rules of the Conference, this matter is decided by the Executive Committee. I simply wanted to extend the invitation at this time knowing, however, that it is for the Executive Committee to decide.

GOVERNOR PARNELL (Arkansas): I want to extend an invitation.

First, I want to read a telegram from the mayor of Hot Springs, Ark.:

"Please extend cordial invitation to the members of Governors' Conference to hold next meeting in Hot Springs. Tell them we will make their Conference the best they have ever held. This is their resort and a national park which next year will celebrate its centennial."

The National Park at Hot Springs, Ark., is your national park as much as anyone's in Arkansas, and we would be glad to have you. We will welcome you to Hot Springs next year so you may see your own resort, the National Park, which is as much yours as anybody else's.

Of course, I realize that my good friend from the southern State of Virginia was possibly sort of assured last year that he should have it, but in case you don't decide to go to Hot Springs this year, I do want you to come to Hot Springs while I am Governor to see your own resort. If you can't come down to help celebrate the centennial of the National Park next year, supposing you come the next year.

I want to leave that with the Executive Committee to think about. We would be glad to have you in case you decide not to go down to Virginia. I realize it might be a little dry for the Governors in Virginia, but Hot Springs is an awfully nice place to go. You can get it hot or cold, just as you like it, down there.

GOVERNOR HARDMAN (Georgia): I know this matter is left to the Executive Committee, but I want to second the invitation extended by the Governor from Virginia. I have no objection in the world to going to Arkansas, but I should like to see it go to Virginia at this time.

CHAIRMAN CASE: The next matter is the election of the new Executive Committee.

EXECUTIVE COMMITTEE MEMBERS REELECTED

GOVERNOR ERICKSON (Montana): I wish the Secretary would read the members of the present Executive Committee.

SECRETARY HARDEE: The members of the present Executive Committee are: Governor Case, Chairman; Governor Roosevelt, Governor Dern, Governor Pollard, Governor Caulfield.

GOVERNOR ERICKSON: Mr. Chairman, I see no reason why there should be any change in this Executive Committee. They have done wonderful work in the past year and have given us a wonderful Conference here. In order to save time, I move that the present Executive Committee be reelected and rechosen for the coming year.

The motion was severally seconded.

CHAIRMAN CASE: I will ask Governor Olson if he will preside. Governor Olson of Minnesota took the chair.

CHAIRMAN OLSON: I want to assure you gentlemen that I won't take advantage of my chairmanship to make a speech. That had none of the makings of a dirty crack as to my predecessors.

Are you ready for the motion? All those in favor of continuing the present Executive Committee in office for the coming year signify by saying "Aye". So ordered.

Is there any other business, gentlemen?

SECRETARY HARDEE: Gentlemen, I am sure you are all appreciative of the splendid way in which the hotel here has entertained us and the management of the hotel has requested Governor Leslie to get your signatures on this special sheet. They want all of the Governors' signatures here on one page, and I have agreed to cooperate with Governor Leslie in calling it to your attention, and I hope every one of you will sign it before you leave the hall.

That is all, Mr. Chairman.

CHAIRMAN OLSON: I understand when we adjourn tonight that will finish the business session of the Conference. Is that correct, Mr. Secretary?

SECRETARY HARDEE: Yes.

CHAIRMAN OLSON: What is your pleasure gentlemen? This is the meeting presumably to be had in the morning. I will entertain a motion to adjourn subject to the call of the Chairman if and when necessary.

GOVERNOR WILSON (Vermont): Are there any resolutions to be reported by the Resolutions Committee?

SECRETARY HARDEE: The custom has been for the Governors to draw the formal resolution of thanks to our host, to the hotel and such agencies as our host might name, the Governors sign it and it goes into the minutes. As I understand, the Committee hasn't yet prepared that; it is just a formal resolution.

GOVERNOR BRUCKER (Michigan): I move we now adjourn.

GOVERNOR ROOSEVELT (New York): The Committee on Resolutions, I think, should have had some resolutions thanking our very delightful host and Mrs. Leslie. That is the usual custom. What has happened to the Committee on Resolutions?

SECRETARY HARDEE: The Committee on Resolutions just hasn't yet prepared the resolution, Governor.

GOVERNOR ERICKSON (Montana): We are simply waiting for the services of a stenographer. We thought tomorrow was the time of the business meeting. But I understand from the Secretary it is simply customary to submit this for the record.

SECRETARY HARDEE: It was done that way in Utah last year and in the other States in which we have met in recent years.

GOVERNOR ERICKSON: I want to say that expressing our appreciation in cold type here would be very inadequate, and I think it would be very nice if the Conference at this time would by a rising vote express their very warm appreciation for the fine courtesy we have en-

joyed from Governor Leslie and his good wife and also these hotel accommodations.

CHAIRMAN OLSON: So say you all?

The motion was carried by a rising vote.

GOVERNOR PARNELL (Arkansas): Governor Emmerson was Chairman of the Auditing Committee of which I was a member. I will say we have audited the books and found everything correct. The Secretary hasn't got away with anything.

CHAIRMAN OLSON: No charges of misconduct or malfeasance?

Gentlemen, the Conference is adjourned.

The meeting adjourned at 5:45 o'clock.

MEETING OF EXECUTIVE COMMITTEE, JUNE 3, 1931

The Executive Committee met in called session. Those present were: Governors Norman S. Case, Henry S. Caulfield, John G. Pollard and George H. Dern. Governor Franklin D. Roosevelt, the remaining member of the Executive Committee, being absent.

On motion, Governor Norman S. Case of Rhode Island was reelected Chairman of the Executive Committee. Former Governor Cary A. Hardee of Florida was reelected Secretary of the Conference for the ensuing year and Governor Harry G. Leslie of Indiana was elected Treasurer of the Conference.

In keeping with the by-laws of the Conference the Treasurer was required to give surety bond for the faithful performance of his duties in the sum of \$5,000.00.

The regular annual dues for support of the Conference was fixed at \$100.00 per annum for each State.

The Secretary was allowed a salary of \$125.00 per month, payable quarterly, with appropriation of \$50.00 per month for stenographic help.

On motion the Executive Committee accepted the invitation of Governor John G. Pollard to hold the next annual Conference of the Governors' Conference in the State of Virginia. The time and place of such Conference therein to be terminated finally by Governor Pollard.

No further business, the Executive Committee adjourned.

RESOLUTIONS

The twenty-third annual Conference of the Governors of the United States has come to a close. It has been one of the most helpful and enjoyable of all the Conferences held; there has been helpful discussion and consideration of many subjects of mutual interest to all the States and from which information of educational value has been received.

The visit to the Governors and their wives and members of their parties has been made especially enjoyable by the wholesome hospitality provided by the people of Indiana and their distinguished Gov-

ernor, the Honorable Harry G. Leslie, and his talented and gracious wife, Mrs. Leslie.

Of unusual interest and enjoyment has been our entertainment at the French Lick Hotel. French Lick is one of the beauty spots of America and our sojourn here has been a rare privilege and one of unalloyed pleasure.

We are under obligations to Mr. Strickland Gillilan, Mr. George Ade, Mr. Meredith Nicholson, Mr. William Herschell and Mr. Will Hays for the delightful entertainment furnished at the Governor's dinner.

We are under special obligations to the ladies who have furnished such delightful entertainment for the wives of the Governors in attendance. In expressing our appreciation we cannot begin to name the individuals who have devoted their time and their efforts to make our stay pleasant. Sufficient to say that we appreciate more than we can tell everything that has been done for us, and we shall ever remember our Conference at French Lick Springs as one of the pleasant incidents in our lives.

The press has been generous in its references to the Conference, and we desire to thank the individual newspapers for their publicity and splendid editorial mention.

J. E. ERICKSON, *Chairman.*

L. G. HARDMAN.

IBRA C. BLACKWOOD.

TREASURER'S REPORT

June 1, 1931.

To the Members of the Executive Committee,
Governors' Conference:

I submit herewith report as Treasurer of the Governors' Conference for the period from July 18, 1930, to June 1, 1931, as follows:

Received from Theodore Christianson, former Treasurer ..	\$6,012.95
Remittances from States (itemized list attached)	3,600.00
Interest	88.23

Total Receipts	\$9,701.18
Disbursements (itemized list attached)	4,737.25

Balance on Hand, June 1, 1931	\$4,963.93
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Invoices for all disbursements approved by the Executive Committee attached hereto.

Respectfully submitted,

HARRY G. LESLIE,

Treasurer, Governors' Conference.

Examined and approved by Auditing Committee:

L. L. EMMERSON,

HARVEY PARNELL,

JOHN G. WINANT,

Committee.

REMITTANCES FROM STATES

1930

July 21	Washington	\$100.00	
	Ohio	100.00	
	North Dakota	100.00	
	Idaho	100.00	
	Georgia	100.00	
	Alaska	100.00	
	Colorado	100.00	\$700.00
August 14	Iowa	100.00	
	Kansas	100.00	
	Michigan	100.00	300.00
August 21	New York	100.00	100.00

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April 27	Kansas	100.00	
	West Virginia	100.00	
	Georgia	100.00	
	Connecticut	100.00	
	Florida	100.00	
	Maine	100.00	
	Vermont	100.00	
	Virginia	100.00	
	Maryland	100.00	
	Illinois	100.00	
	Missouri	100.00	
	Rhode Island	100.00	
	Pennsylvania	100.00	
	New Jersey	100.00	
	Indiana	100.00	
	Delaware	100.00	
	North Dakota	100.00	
	Montana	100.00	
	Hawaii	100.00	
	Porto Rico	100.00	2,000.00
May 18	Oklahoma	100.00	
	Utah	100.00	
	Washington	100.00	
	Massachusetts	100.00	
	South Carolina	100.00	500.00
	Total	\$3,600.00	\$3,600.00

DISBURSEMENTS

1930

Sept. 3	Leroy G. Gordner	\$12.50
	Frank W. Otterstrom	192.00
Sept. 25	Suwanee Democrat	34.00
	Cary A. Hardee	842.65
Nov. 3	Cary A. Hardee	607.50
	George D. Barnard Stationery Co.	48.28
Dec. 23	Cary A. Hardee	740.63

1931

Jan. 8	Printing Corporation of America	607.50
Jan. 13	George H. Dern	334.18
Jan. 26	Norman S. Case	24.85
April 27	Cary A. Hardee	148.68
	Cary A. Hardee	784.93
May 28	George H. Dern	359.55

Total \$4,737.25

